

B. 45 B. 1.

# CORRESPONDENCE

## WITH THE SECRETARY OF STATE

RELATIVE TO

# NEW ZEALAND.

---

*Presented to the House of Lords, by the Queen's Command, in pursuance  
of an Address to Her Majesty of the 13th April, 1840.*

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LONDON:

PRINTED BY W. CLOWES AND SONS, 14, CHARING-CROSS,  
FOR HER MAJESTY'S STATIONERY OFFICE.

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# SCHEDULE.

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## Correspondence relative to New Zealand.

No. 1.

From JAMES STEPHEN, Esq., to JOHN BACKHOUSE, Esq.

SIR,

*Downing Street, 12th Dec. 1838.*

No. 1.

I AM directed by Lord Glenelg to request that you will bring under the consideration of Viscount Palmerston the expediency of appointing an officer, invested with the character and powers of British Consul, at New Zealand.

James Stephen, Esq.  
to John Backhouse,  
Esq.  
12th December 1838.

The islands of New Zealand have long been resorted to by British subjects, both as possessing peculiar advantages for refitting whale-ships in the South Seas, and on account of the supplies which they afford of timber, flax, and other articles of value. They have also, from their proximity to the penal settlements of New South Wales and Van Diemen's Land, furnished an asylum to fugitive convicts, who, associated with men left in these islands at different times by the whalers and other vessels, have formed a society much requiring the check of some competent authority.

In consequence of representations from the local authorities of New South Wales, it was thought advisable, in the year 1832, to appoint a person in the character of British Resident at New Zealand. The object in making this appointment was two-fold, to repress acts of fraud and aggression practised by British subjects against the natives, and, by acquiring a beneficial influence over the various chiefs, to protect the lives and properties of British subjects engaged in fair trade with the natives. The officer so appointed was placed on the Civil Establishment of New South Wales, and wholly under the directions of the Governor of that colony. Enclosed are Copies of the Instructions which were furnished to him by Governor Sir R. Bourke.

*13th April 1833.*

It has happened, however, that the authority of the Resident has, from various causes, proved for the most part inoperative; at the same time, the chiefs severally have evinced a strong disposition to place themselves under British protection. In the year 1835 a declaration was adopted and subscribed by the chiefs of the northern parts of New Zealand, when their country was threatened with aggression by the Baron de Thierry, in which declaration they set forth the independence of their country, and declared the union of their respective tribes into one State, under the designation of the Tribes of New Zealand. They also came to a resolution to send a copy of that declaration to His late Majesty, to thank him for His acknowledgment of their national flag; and to entreat that, in return for the friendship and protection which they had shewn, and were still prepared to shew, to such British subjects as had settled in their country or resorted to it for the purposes of trade, His Majesty would continue to be the parent of their infant State, and its protector from all attempts on its independence.

But the existing arrangement having failed to answer the purposes contemplated in its adoption, Lord Glenelg is of opinion that those purposes will be more effectually attained by the appointment of a British Consul to reside at New Zealand.

If Lord Palmerston should concur in this opinion, Lord Glenelg would suggest that his Lordship should communicate with the Lords Commissioners of the Treasury, in order that provision may be made for the appointment, in the Estimates for Consular Establishments. As it will be necessary that the Consul should not be allowed to trade, the amount of his salary will, of course, be fixed, with reference to that circumstance. Hitherto there has been provided annually from the revenue of New South Wales a sum of £500 for the salary of the Resident, and £200 on account of donations of provisions and clothing to the chiefs and natives generally; but as the object is one of a national character, and not limited to any interest connected with New South Wales, Lord Glenelg does not think the charge of the proposed Consular establishment could properly be imposed on the revenue of that colony, but Lord Glenelg is disposed to think that it will be necessary in the new arrangement to assign a larger sum than £200 for the various disbursements of different kinds which the Consul will be obliged to make.

Lord Glenelg further proposes, that until the state of society in New Zealand shall have become more settled, and until the relations with the native chiefs shall



No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

have been placed on a more permanent footing, the Consul should communicate direct with this Department.

I enclose, for Lord Palmerston's further information, a Copy of a Despatch from the Governor of New South Wales, bearing date the 9th of September, 1837, which covers two Reports, illustrative of the present state of New Zealand, one from Captain Hobson, commanding Her Majesty's Ship "Rattlesnake," the other from the British Resident.

I have, &amp;c.,

*John Backhouse, Esq.*

(Signed)

JAMES STEPHEN.

&amp;c. &amp;c. &amp;c.

(Copy.)

(Enclosure 1 in No. 1.)

From Sir RICHARD BOURKE, K.C.B., to JAMES BUSBY, Esq., British Resident, New Zealand.

*New South Wales, Government House,  
13th April 1833.*

SIR,

Enclosure 1 in No. 1.

HAVING received His Majesty's Commands to furnish you with instructions for your conduct and guidance in the discharge of your duties as British Resident at New Zealand (to which place I propose you should immediately proceed), I have to request your attention to the following particulars.

You are probably aware that the creation of the appointment which you hold has originated in the representations made at different times by this Government, touching the acts of violence and inhumanity perpetrated on the natives of New Zealand by the crews of British vessels frequenting those islands. The extent to which these atrocities have been carried may be estimated by the perusal of the accompanying Papers relating to the conduct of the master of the brig "Elizabeth," a vessel lately trading between this colony and New Zealand. The facts of this dreadful case made it at once apparent that it was no less a sacred duty than a measure of necessary policy to endeavour, by every possible method, to rescue the natives of those extensive islands from the evils to which their intercourse with Europeans had exposed them, and, at the same time, to avert from the well-disposed of His Majesty's subjects, settled in New Zealand, the fatal effects which would sooner or later flow from the continuance of such acts of unprincipled rapacity and sanguinary violence, by exciting the natives to revenge their injuries by an indiscriminate slaughter of every British subject within their reach.

To check as much as possible the enormities complained of, and to give encouragement and protection to the well-disposed settlers and traders from Great Britain and this colony, it has been thought proper to appoint a British subject to reside at New Zealand in an accredited character, whose principal and most important duty it will be to conciliate the good-will of the native chiefs, and establish upon a permanent basis that good understanding and confidence which it is important to the interests of Great Britain and of this colony to perpetuate. It may not be easy to lay down any certain rules by which this desirable object is to be accomplished, but it is expected that by the skilful use of those powers which educated man possesses over the wild or half-civilized savage, an influence may be gained by which the authority and strength of the New Zealand chiefs will be arrayed on the side of the Resident for the maintenance of tranquillity throughout the islands. An address to His Majesty, lately forwarded from several of the chiefs of New Zealand, requesting the King's interference for the punishment of evil-doers, and claiming His Majesty's protection for their country, sufficiently shows the favourable point of view in which the power and justice of Great Britain are regarded by them. The reply which His Majesty has been graciously pleased to make to that address is calculated to augment this feeling. I have the honour to transmit this reply in original, and to request you will take an early opportunity, after your arrival at the Bay of Islands, of delivering it, with as much formality as circumstances may permit, to as many of the chiefs who subscribed the address as can be conveniently assembled for the purpose. You will also please to take that opportunity for delivering the presents which have been selected for them. It will be fitting at the same time that you explain to the chiefs the object of your mission, and the anxious desire of His Majesty to suppress, by your means, the recurrence of those disorders of which they complain. You will also announce your intention of remaining among them, and will claim the protection and privileges which you will tell them are accorded in Europe and America to British subjects holding in foreign states situations similar to yours. You will find it convenient to manage this conference by means of the missionaries, to whom you will be furnished with credentials, and with whom you are recommended to communicate freely upon the objects of your appointment, and the measures you should adopt in treating with the chiefs. The knowledge which the missionaries have obtained of the language, manners, and customs of the natives may thus become of the greatest service to you.

You will proceed to New Zealand, in His Majesty's ship "Imogene," commanded by Captain Blackwood, who has been requested to afford you not only protection in case of any untoward event, but the countenance and support which the presence of one of His Majesty's ships of war is calculated to afford, as well upon your first arrival in the country, as during your conference with the chiefs. I may here inform you that the Lords of the Admiralty have instructed Vice-Admiral Sir John Gore, commanding His Majesty's ships and vessels in India, to direct a vessel from his squadron to put in at the principal harbours of New Zealand as frequently as possible.

If your proposal to reside, in an accredited character, in New Zealand, shall be received by the chiefs with that satisfaction which, from the tenor of their address to His Majesty there

Enclosure 3.

Enclosure 4.



is little reason to doubt, you will then confer with them as to the most convenient place for establishing your residence, and will claim protection for the persons and property of yourself, family, and servants, either by the establishment of one or other of the principal chiefs at or near your dwelling, or by placing a native guard over it, or by any other means which, upon conferring with the missionaries, you shall think it expedient to require. If you shall find it necessary to offer such chief or guard, either annually or at shorter periods, any presents of inconsiderable value, they shall be furnished on your application. You should, however, take care in distributing these or any other presents, not to create a jealousy on the part of those whom it may not be necessary to conciliate, and upon whom, consequently, such presents need not be bestowed.

If, contrary to all expectation, your reception at New Zealand by the chiefs should not be such as to afford you a well-grounded assurance of perfect security for yourself and family, and the chance of being able to accomplish some, at least, of the objects of your mission, you will consider yourself at liberty, after all hope of succeeding by negotiation shall have failed, to re-embark on board the "Imogene," and return to this colony.

Assuming, however, that your reception will be as favourable as has been anticipated, I will endeavour to explain to you the manner of proceeding by which, I am of opinion, you may best succeed in effecting the objects of your mission.

You will, at the same time, understand that the information I have been able to obtain respecting New Zealand is too imperfect to allow of my presenting you with anything more than a general outline for your guidance; leaving it to your discretion to take such further measures as shall at any time seem needful. You are aware that you cannot be clothed with any legal power or jurisdiction by virtue of which you might be enabled to arrest British subjects offending against British or Colonial law in New Zealand. It was proposed to supply this want of power, and to provide for the enforcement of the criminal law, as it exists among ourselves, and further to adapt it to the new and peculiar exigencies of the country to which you are going, by means of a Colonial Act of Council grafted on a Statute of the Imperial Parliament. Circumstances which I am not at present competent to explain, have prevented the enactment of the Statute in question. You can, therefore, rely but little on the force of law, and must lay the foundation of your measures upon the influence which you shall obtain over the native chiefs. Something, however, may be effected under the law as it stands at present. By the 9th Geo. IV., cap. 83, sec. 4, the Supreme Courts in New South Wales and Van Diemen's Land have power to enquire of, hear, and determine, all offences committed in New Zealand by the master and crew of any British ship or vessel, or by any British subject living there; and persons convicted of such offences may be punished as if the offence had been committed in England. The law having thus given the Court the power to hear and determine offences, it would seem to follow, as a necessary incident, that it has the power of bringing before it any person against whom any indictment should be found, or information filed for any offences within its jurisdiction. If, therefore, you should at any time have the means of sending to this colony any one or more persons capable of lodging an information before the proper authority here, of an offence committed in New Zealand, you will, if you think the case of sufficient magnitude and importance, send a detailed report of the transaction to the Colonial Secretary by such persons, who will be required to depose to facts sufficient to support an information upon which a bench warrant may be obtained from the Supreme Court for the apprehension of the offender, and transmitted to you for execution. You will perceive at once that this process, which is at best but a prolix and inconvenient operation, and may incur some considerable expense, will be totally useless unless you should have some well-founded expectation of securing the offender upon or after the arrival of the warrant and of being able to effect his conveyance here for trial, and that you have provided the necessary evidence to ensure his conviction.

In cases, however, where a person proceeding from New Zealand to this colony on his own affairs, can give evidence of any offence committed by a British subject in New Zealand, it will be right to apprise the Colonial Secretary, in order that a sworn information may be obtained from him, upon which the offender may, if he should arrive in this colony, be immediately apprehended.

Having stated in the foregoing paragraph that the warrant of the Court might be transmitted to you for execution, I would here observe that I can propose no other means by which you may secure the offender, than the procuring his apprehension and delivery on board some British ship for conveyance to this country, by means of the native chiefs, with whom you shall be in communication.

It is well known that amongst those Europeans who are leading a wandering and irregular life at New Zealand are to be found transported felons and offenders escaped from this colony and Van Diemen's Land. It is desirable that opportunities for the apprehension and transmission of those convicts to either colony should be promptly embraced. The chiefs, it is said, are well acquainted with the descriptions of the different Europeans residing in their country, and will be found able and willing to point out and secure, at a convenient time, those whom they know to be fugitives from the Australian Colonies.

You will be furnished, from the office of the Principal Superintendent of Convicts in Sydney, with the names and descriptions of those convicts from New South Wales who are known or suspected to be concealed in the islands of New Zealand, and you will use your discretion as to the fittest time for causing the apprehension and removal of such as may be within your reach, or are guilty of any offence against the peace and tranquillity of the country.

You will, of course, take every precaution to avoid the apprehension of a free person in mistake for a convict, as an action for damages would probably follow the commission of such an error. This Government will indeed be disposed to save you harmless in all such cases

No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 1 in No. 1.



No. 1

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 1 in No. 1.

where becoming circumspection has been used ; but it would be manifestly imprudent to incur any considerable risk for a trifling advantage.

When any of His Majesty's ships of war are off the coast, you will request the commander to receive the convicts or other prisoners arrested by your means, for conveyance to this place ; but as such opportunities cannot be frequent, arrangements will be made by this Government for the conveyance of all such persons as you shall put on board the merchant vessels engaged in constant trade between this colony and New Zealand. I would further observe that, by means of the information which you are likely to receive from the chiefs, you may become acquainted with the criminal projects of Europeans before their execution, and, by a timely interference, you may be able altogether to prevent their mischievous designs, or render them abortive. In the character which you hold, you will be justified in addressing any British subject to warn him of the danger to which he may be exposed by embarking or persevering in any undertaking of a criminal or doubtful character.

You will be pleased to keep this Government fully informed of every circumstance of importance occurring in New Zealand which in any way relates to the objects of your mission, or is brought under notice in these instructions. The vessels trading between Sydney and the Bay of Islands will offer the means of forwarding your communications.

In the manner I have now described, and by proceedings of a similar character, it may perhaps, be possible to repress the enormities which have heretofore been perpetrated by British subjects in New Zealand. It may also happen that this salutary control will not affect British subjects only, but that the knowledge of there being a functionary stationed in New Zealand, through whom offences committed by the subjects of any other state against the people of that country will be made known to the British Government, and through that Government to the other European and American powers, may induce the subjects of those powers to adopt a less licentious conduct towards the New Zealanders and other inhabitants of the South Sea Islands.

There is still another form in which the influence which it is hoped the British Resident may obtain over the minds of the New Zealand chiefs may be even more beneficially exhibited. It is possible that by your official mediation the evils of intestine war between rival chiefs, or hostile tribes, may be avoided, and their differences peaceably and permanently composed. It is also possible, that at your suggestion, and by the aid of your counsels, some approach may be made by the natives towards a settled form of government, and that by the establishment of some system of jurisprudence among them, their courts may be made to claim the cognizance of all crimes committed within their territory ; and thus may the offending subjects, of whatever state, be brought to justice, by a less circuitous and more efficient process than any which I have been able to point out. If, in addition to the benefits which the British missionaries are conferring on those islanders, by imparting the inestimable blessing of Christian knowledge, and a pure system of morals, the Zealanders should obtain through the means of a British functionary, the institution of courts of justice, established upon a simple and comprehensive basis, some sufficient compensation would seem to be rendered for the injuries heretofore inflicted by our delinquent countrymen.

Having thus explained to you, generally, the course of proceeding by which I think your residence in New Zealand may be made conducive to the suppression of the enormities which British subjects, and those of other states, have been in the habit of committing in those islands, I have only further to observe, that it will be your duty to assist, by every means in your power, the commercial relations of Great Britain and her colonies with New Zealand. It would, indeed, be desirable that you became the medium of all communications between the New Zealand chiefs and the masters of British or Colonial vessels frequenting the coasts, and the merchants and settlers established in the islands. This arrangement will probably grow out of your residence in the country, and you should keep it in view as an important object. You will please to forward, by every opportunity, a shipping report, setting forth the names, masters, number of crew, tonnage, and countries of vessels arriving at the Bay of Islands, or other ports of New Zealand, from whence you can obtain correct accounts ; with the cargoes of such vessels, their object in touching at New Zealand, and any other particulars concerning them that may be worthy of notice.

You will please to furnish this Government with occasional reports upon the agriculture, commerce, and general statistics of those islands. Under the *first* of these divisions you will not fail to mention the quantity of flax you may conjecture to be cut annually, and how disposed of. Under the *second*, I beg to call your attention to the strange and barbarous traffic in human heads, which certainly did exist to some extent, but which I am given to understand is now nearly abandoned. Should it be found to continue, or revive, some legislative enactment may be necessary to prohibit, in this Colony, the crime and disgrace of participating in so brutalizing a commerce.

Having already mentioned the assistance which I anticipate you will receive from the missionaries, I have only now to impress upon you the duty of a cordial co-operation with them in the great objects of their solicitude, the extension of Christian knowledge throughout the islands, and the consequent improvement in the habits and morals of the people.

James Busby, Esq.  
British Resident at New Zealand.

(Signed)

I have, &amp;c.

RICHARD BOURKE.



(Enclosure 2 in No. 1.)

From WILLIAM YATE, Esq., to the COLONIAL SECRETARY, New South Wales.

SIR,

Waimate, New Zealand, November 16, 1831.

No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 2 in No. 1.

I have the honour to forward to you, by His Majesty's Ship "Zebra," the enclosed New Zealand document, with its translation, and to request that you will lay it before the Governor for his information. I have further to request that it be transmitted through His Excellency to the Secretary of State, in order to its being laid before His Majesty.

I have, &c.,  
(Signed) WILLIAM YATE.

(Enclosure 3 in No. 1.)

To KING WILLIAM, the Gracious CHIEF of ENGLAND.

KING WILLIAM,

We, the chiefs of New Zealand assembled at this place, called the Kerikeri, write to thee, for we hear that thou art the great chief of the other side the water, since the many ships which come to our land are from thee.

Enclosure 3 in No. 1.

We are a people without possessions. We have nothing but timber, flax, pork, and potatoes, we sell these things however to your people, and then we see the property of Europeans. It is only thy land which is liberal towards us. From thee also come the missionaries who teach us to believe on Jehovah God, and on Jesus Christ his Son.

We have heard that the tribe of Marian\* is at hand coming to take away our land, therefore we pray thee to become our friend and the guardian of these islands, lest the teasing of other tribes should come near to us, and lest strangers should come and take away our land.

And if any of thy people should be troublesome or vicious towards us, (for some persons are living here who have run away from ships,) we pray thee to be angry with them that they may be obedient, lest the anger of the people of this land fall upon them.

This letter is from us, from the chiefs of the natives of New Zealand.

The foregoing is a *literal* translation of the accompanying document.

WILLIAM YATE,

Secretary to the Church Missionary Society, New Zealand.

- |                  |                                     |
|------------------|-------------------------------------|
| No. 1. Warerahi. | Chief of Paroa.                     |
| 2. Rewa.         | Chief of Waimate.                   |
| 3. Patuone.      | } Two brothers, chiefs of Hokianga. |
| 4. Nene.         |                                     |
| 5. Kekeao.       | Chief of the Ahuahu.                |
| 6. Titore.       | Chief of Kororarika.                |
| 7. Tamoranga.    | Chief of Taiamai.                   |
| 8. Ripe.         | Chief of Mapere.                    |
| 9. Hara.         | Chief of Ohaiawai.                  |
| 10. Atuahaere.   | Chief of Kaikohi.                   |
| 11. Moetara.     | Chief of Pakanai.                   |
| 12. Matangi.     | Chief of Waima.                     |
| 13. Taunui.      | Chief of Hutakura.                  |

(Copy.)

(Enclosure 4 in No. 1.)

LORD VISCOUNT GODERICH, one of the Principal Secretaries of State to HIS MAJESTY the KING of GREAT BRITAIN, to the CHIEFS of NEW ZEALAND.

Enclosure 4 in No. 1.

FRIENDS,

I am commanded by the King to acknowledge the receipt of the letter, which you addressed to His Majesty, and which you entrusted to Mr. William Yates to forward to England.

The King is much gratified to find that the cause for alarm, which appears to have existed at the time when your letter was written, has entirely passed away, and he trusts that no circumstances may occur, in future, to interrupt the internal tranquillity of New Zealand, which is so necessary to the maintenance of a close commercial intercourse between its inhabitants and those of Great Britain.

The King is sorry for the injuries, which you inform him, that the people of New Zealand have suffered from some of his subjects; but he will do all in his power to prevent the recurrence of such outrages, and to punish the perpetrators of them according to the laws of their country, whenever they can be apprehended and brought to trial, and the King hopes, that mutual good-will and confidence will exist between the people of both countries.

In order to afford better protection to all classes, both natives of the island of New Zealand and British subjects who may proceed or may be already established there for purposes of trade, the King has sent the bearer of this letter, James Busby, Esq., to reside amongst you, as His Majesty's Resident, whose duties will be to investigate all complaints which may be made to him. It will also be his endeavour to prevent the arrival amongst you of men who have been guilty of crimes in their own country, and who may effect their escape from the place to which they may have been banished, as likewise to apprehend such persons of this description as may be found at present at large.

In return for the anxious desire which will be manifested by the British Resident to afford

\* The French ship, "La Favorite," anchored the day after the document was signed. The natives call the French Marian, from the name of the Captain who was cut off in June, 1772.



No. 1.  
James Stephen, Esq.  
to John Backhouse,  
Esq.  
12th December 1838.  
Enclosure 4 in No. 1.

his protection to the inhabitants of New Zealand against any acts of outrage which may be attempted against them by British subjects, it is confidently expected by His Majesty that, on your part, you will render to the Resident that assistance and support which are calculated to promote the object of his appointment, and to extend to your country all the benefits which it is capable of receiving from its friendship and alliance with Great Britain.

I have, &c.,  
GODERICH.

Colonial Office, 14th June, 1832.

(Copy.)

(Enclosure 5 in No. 1.)

From Sir R. BOURKE, K.C.B., to Lord GLENELG.

MY LORD,

Government House, Sydney, 9th September, 1837.

Enclosure 5 in No. 1.

WHILE awaiting the measure which your Lordship has recently announced an intention of resuming, for the Parliamentary regulation of the intercourse between British subjects and New Zealand, it may be proper to lay before His Majesty's Government whatever information I am able to procure upon this difficult question.

With this view, having lately had occasion, in consequence of a war breaking out between two tribes near the Bay of Islands, to request Captain Hobson, commanding His Majesty's ship *Rattlesnake*, an experienced and judicious officer, to repair to New Zealand to afford to British subjects resident there, and to British shipping, such protection as might be required, I proposed to him to make known to me, on his return, the opinions which his observation whilst there might lead him to form upon the present state of New Zealand, and the means of securing, with the least possible overt interference, the common interests of the natives, and of the British settled amongst them. This request has been complied with in the letter of which a copy is transmitted, and which appears to me to contain suggestions of great value. Captain Hobson proposes the introduction of commercial establishments, confined within certain limits, upon a plan resembling the factories of the early trading companies resorting from Europe to India, and within which limits resident British subjects shall be placed under the protection and obligation of their own laws,—premising, as an inflexible condition, that nothing whatever be established on the part of the British Government, which is not cheerfully conceded on terms of clear mutual interest by the natives. The details of the proposed measure may be varied to suit whatever circumstances may arise; and this, without giving any reasonable cause for jealousy on the part of the other states, or exciting alarm in the breasts of those philanthropists who so creditably and powerfully advocate the rights of the aborigines all over the world. It is neither possible nor desirable to put a stop to the growing intercourse between the English colonies in these seas and New Zealand, the extent of which will appear by the accompanying return. If the British resident were withdrawn, which I represented in a former despatch to be an alternative preferable to his being left there, without adopting some further measures to secure the professed objects of his appointment, the public might indeed be warned that the trade of New Zealand was to be carried on at their own hazard; but it would be difficult for His Majesty's or for this Government to act for any length of time upon the stern principle of absolute non-interference, if the lives or property of British subjects appeared to be in jeopardy. Any plan, therefore, by which intercourse may be sufficiently regulated, and usurpation, real or apparent, avoided,—providing at the same time for its support without drawing upon the revenues of this colony,—is well worthy of serious consideration. I confess that I am unable to submit a better arrangement than this, which Captain Hobson has proposed, and therefore beg to recommend his letter to your Lordship's attention.

With Captain Hobson's report I have the honour to transmit the copy of a letter received by his hands from the resident, Mr. Busby, describing at considerable length the present condition and character of the New Zealanders, and the manner in which they are affected by the intercourse of Europeans. This letter contains suggestions for the future proceedings of Great Britain towards New Zealand, which are not without value, but which would probably be found difficult to reconcile with some of the peculiar circumstances affecting the matter under consideration. Mr. Busby recommends that Great Britain should undertake the *protection* of New Zealand, and for this purpose should maintain British troops on the islands; but though this undertaking should be com-

8th August 1837.  
(A.)

(B.)

16th June 1837.  
(C.)



menced with the greatest good faith and purest intentions, it would be open to misinterpretation, and in a remote country, where it is hardly to be expected the law would be very efficiently administered, it might be eventually perverted by British subjects to selfish purposes.

A part of Mr. Busby's letter being taken up in the description of the native war to which I have alluded, and which alarmed him for the safety of the European inhabitants, I am happy to be able to show, by the copy of a letter since received from him, that peace is now restored. Your Lordship will perceive with pleasure that it has (I believe for the first time in New Zealand) been effected without the loss of human life by way of retaliation, or as the price of accommodation,—a piece of land being accepted in compensation of an aggression which had caused the death of a woman belonging to one of the belligerent tribes.

I take the present opportunity of stating, that the Baron de Thiery, who was mentioned in your Lordship's Despatch of the 26th August last, is at present in Sydney, where he has arrived on his way to New Zealand, to seek possession of a large tract of property which he claims to have acquired by purchase. He has complained to me that the spars for the use of the navy, to be furnished to His Majesty's ship "Buffalo", now proceeding from hence to New Zealand, are cut on his land; but I have declined interfering in any way in the matter. Nor have I considered it my duty to interpose any obstacle to his proceeding to New Zealand, of which country he claims to be a chief by right of his purchases. He denies all intention of prejudicing the interests of Great Britain, and professes a reliance upon moral influence alone for the authority he expects to acquire among the New Zealanders.

I have, &c.

(Signed)

RICH. BOURKE.

(A.)

From Captain W. HOBSON to his Excellency Lieutenant-General Sir RICHARD BOURKE, K.C.B., Governor.

SIR,

*H. M. Ship "Rattlesnake," Port Jackson, 8th August 1837.*

I HAVE the honour to acquaint you that His Majesty's ship "Rattlesnake" in her late cruise visited the Bay of Islands and several other ports on the eastern coast of New Zealand, and in Cook's Straits.

It affords me great satisfaction to assure your Excellency that the European settlers at the Bay of Islands repose the most entire confidence in the friendly disposition of the natives, notwithstanding the existence of war between the two tribes settled in their immediate neighbourhood. I am aware that the British resident is not free from apprehension; but from the intercourse I maintained with the missionaries, and all other classes of British subjects, I am free to assert that he stands alone in the opinion he has formed.

The war between the Bay of Islands tribes under Pomare and Titore is the only one now prevailing in New Zealand, notwithstanding that many of the auxiliaries enlisted under the rival chiefs have come from considerable distances in every direction; but this does not appear to disturb the harmony of those who remain behind in their Pas, although the nearest neighbours are engaged on opposite sides.

Reverting to the position in which our countrymen stand in regard to these factions, it is a remarkable fact, and worthy of imitation by more civilized powers, that the hostile forces have repeatedly passed through the very inclosures of the missionaries at Pahia, on their way to and from the field of battle, without molesting a single article belonging to the whites; and in one instance the two parties, by mutual consent, removed the scene of action to a greater distance from our settlements, lest a white man should by accident be injured. How long this feeling may continue, it is impossible to say. I only know that those who have every thing at stake,—their lives, their families and their properties,—entertain not the slightest apprehension of any change.

I heartily wish I could report as favourably of their situation with respect to the abandoned ruffians from our own country who have from time to time found their way to the Bay of Islands. From these indeed there is much to be dreaded. An instance of a most daring burglary occurred in my absence on the east coast, in which a British settler was extensively robbed, his life attempted, and the females of his family most brutally treated, I am happy to say, two out of four of the perpetrators of this outrage have been apprehended and banished by the natives, and were brought to Sydney in this ship. I sincerely hope the 9th of George the Fourth will be found applicable to their case, and that they may be made an example to many of a similar character who remain behind to disgrace our nation even in the eyes of savages.

In our cruise on the eastern coasts I visited Puriri and Waikaitewa on the Thames, the

B

No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 5 in No. 1.

13th July 1837.

(D.)



No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 5 in No. 1.

(A.)

island of Waihike at its entrance, and Cloudy Bay in Cook's Straits. I intended to have called at Entry Island and Marra, where a Mr. Bell has settled; but the boisterous state of the weather prevented my anchoring. I stood close in to both islands, and feel convinced that the very appearance of a man-of-war in that quarter will have considerable weight, from the terror in which we are held by the natives, in consequence of the severe chastisement inflicted on them by the Alligator, and the detachment of H.M. 50th regiment, in 1835; and, for the same reason, I have no doubt but our visit to the Thames will also be productive of benefit, for there the natives are in a more primitive state than at the Bay of Islands, and when engaged in war have not always been so scrupulous about the property of British subjects, although in no instance has any violence been done to their persons. I will suggest to the officer who may succeed me on this station to open a further intercourse with the natives on the Thames, which will soon place our settlers there in a state of as perfect security as in any part of the island.

On the northern shores of Cook's Straits a most powerful tribe of natives have collected under the celebrated warrior Ruperiha, but it does not appear they have in view any warlike object; indeed, if they had, our countrymen, with the exception of Mr. Bell and his small party on the islands, would have little to fear, for the only other places to which the whites resort are Cloudy Bay and Queen Charlotte's Sound, where they are so numerous, and so confederated by their pursuits, (which are exclusively whale-fishing,) that no tribe of natives whatsoever dare molest them. The only danger they have to apprehend is from themselves, and that is in a great measure neutralized by the counteracting influence of their own reckless and desperate character.

The quarrel between the Bay of Islands tribes is supposed by the best informed to be in a fair train for adjustment. When we sailed, the loss sustained by the conflicting parties was more nearly on a par, not from the numbers slain, but from the possession acquired by the Ngapulies (as Titore's people are called) of the dead body of a chief of the opposite party, on whom atonement was made for an insult that was offered to two of their chiefs who had been killed in battle, and found by the enemy. There are other causes, too, that, it is hoped, will lead to pacification. Nene, a powerful chief from Hokianga, who has embraced Christianity, has brought his tribe across the island with the full determination to compel the contending parties to make peace; and as he is known to possess both courage and power to turn the scale on either side, his mediation is not likely to be slighted. The scarcity of provisions and the necessity for agriculture will also operate favourably towards the same object. On the other hand, the excellent chief Titore is dead, and his people are under the direction of a perfect savage, who thirsts for war; and Pomare, the head of the opposite tribe, is likewise a violent fellow, who claims a right to the land of Korararica, which was once his, but was ceded to Titore, at the peace of 1830. The gentlemen of the mission maintain a constant intercourse between the parties, and are received by both with the greatest respect. Their efforts to promote peace are unremitting, and of late they have felt confident of eventual success.

In reporting to your Excellency my views and observations on the social condition of the New Zealanders, I cannot repress a feeling of deep regret that so fine and intelligent a race of human beings should, in the present state of general civilization, be found in barbarism; for there is not on earth a people more susceptible of high intellectual attainments, or more capable of becoming a useful and industrious race under a wise government. At present, notwithstanding their formal declaration of independence, they have not, in fact, any government whatsoever; nor could a meeting of the chiefs who profess to be the heads of the united tribes, take place at any time without danger of bloodshed. How, then, can it be expected that laws will be framed for the dispensation of justice, or the preservation of peace and good order, even if native judgment were sufficiently matured, to enact such laws, or to carry them into execution.

Whilst the disunited state of the tribes, and the jealousy of each other, render it impossible to enact or execute laws, it also lays them open to the designs of turbulent individuals, and destroys all confidence in the permanency of the peace.

That their wars, which are fast depopulating their beautiful country, may sooner or later be extended to our countrymen, is a circumstance that it would be the height of rashness to doubt; and as British subjects are fast accumulating, and are every day acquiring considerable possessions of land, it must become a subject of deep solicitude with the British government to devise some practicable mode of protecting them from violence, and of restraining them from aggression.

Heretofore the great and powerful moral influence of the missionaries has done much to check the natural turbulence of the native population; but the dissolute conduct of the lower orders of our countrymen not only tends to diminish that holy influence, but to provoke the resentment of the natives, which, if once excited, would produce the most disastrous consequences. It becomes, therefore, a solemn duty, both in justice to the better classes of our fellow-subjects and to the natives themselves, to apply a remedy for the growing evil.

It has occurred to me, that if factories were established at the Bay of Islands, at Cloudy Bay and Hokianga, and in other places, as the occupation by British subjects proceeds, a sufficient restraint could be constitutionally imposed on the licentious whites, without exciting the jealousy of the New Zealanders, or of any other power.

I will not presume to enter too deeply into the details of such a measure, but beg simply to suggest, that sections of land be purchased, inclosed and placed within the influence of British jurisdiction, as dependencies of this colony.



The heads of factories should be magistrates, and the chief factor should, in addition, be accredited to the united chiefs of New Zealand as a political agent and consul. All communications with the British Government should take place through the chief factor, with whom alone the local factors should correspond.

All British subjects should be required to register themselves and their landed property at the factories.

Two or more of the most respectable British residents nearest to each station should hold commissions of the peace to assist the factors.

Prisons should be constructed within the factories, and legally proclaimed in the colony.

A treaty should be concluded with the New Zealand chiefs for the recognition of the British factories, and the protection of British subjects and property.

To meet the expenses which the establishment of a system of factories upon the principle I have mentioned would necessarily entail, funds might be obtained from a variety of sources, such as a small fee on the registration of the purchase of land from the natives; on the entry and clearance of British shipping, and a small per centage on goods and produce imported and exported. The great security which would result from this system would, it is conceived, readily dispose the British subjects resident in New Zealand to conform to such an impost.

I am aware of the necessity of a British Act of Parliament to give effect to the whole system, to impart to the colonial courts of New South Wales, more perfectly than at present, jurisdiction over offences committed by British subjects in New Zealand, and to the Colonial Legislature to enact such laws in respect thereof as the more complete local knowledge of the country might from time to time suggest.

The benefit that may be supposed to result from the establishment of factories in New Zealand is not confined to the mere legal protection they are calculated to afford; but we may hope they will be the means of introducing amongst the natives a system of civil government which may hereafter be adopted and enlarged upon. Nor is it to be overlooked, that in times of intestine war they will afford a safe retreat to our fellow-countrymen, who will become powerful by concentration.

I trust the imperfection of the foregoing details may not be allowed to militate against the measure I have the honour to suggest; but if the principle be approved, that it may be modified and arranged by abler hands, so as to adapt it to the exigency of the case.

I have, &c.,

(Signed) W. HOBSON, *Captain*.

No. 1.

James Stephen, Esq.  
to John Backhouse,  
Esq.

12th December 1838.

Enclosure 5 in No. 1.

(A.)

(B.)

A LIST of all the SHIPS which have visited the *Bay of Islands* during the Six Months ending 31st December 1836, with a SUMMARY for the whole year.

(B.)

A LIST of all VESSELS which have visited the *Bay of Islands, New Zealand*, during the Six Months ending 31st December 1836.

| Date of Arrival. | Description and Name of Vessel. | Name of Master. | Tonnage. | Place or Country to which belonging. | From whence.      | Cargo.               | Date of Departure. | Remarks.            |
|------------------|---------------------------------|-----------------|----------|--------------------------------------|-------------------|----------------------|--------------------|---------------------|
| 1836:<br>July 12 | Barque, Sir W. Wallace.         | Finnis . .      | 262      | New South Wales.                     | Sperm oil fishery | 550 barrels oil      |                    |                     |
| ,, 14            | Ditto, William the Fourth.      | Chamberlain .   | .        | Van Diemen's Land                    | . ditto . .       | 550 . ditto.         |                    |                     |
| ,, 20            | Schooner, Criterion             | Bridges . .     | 100      | America . . .                        | Sydney . . .      | merchandise .        | . .                | for Tahiti.         |
| Aug. 8           | Ditto, Currency Lass            | Edwards . .     | 90       | New South Wales.                     | . ditto . .       | . ditto . .          | . .                | for Coasting Trade. |
| Sept. 5          | Brig, Nereus . .                | Butcher . .     | 125      | . ditto . . .                        | Sperm oil fishery | 350 barrels oil      |                    |                     |
| ,, 6             | Barque, Lady Blackwood.         | Abbott . .      | 253      | . ditto . . .                        | . ditto . .       | 1,200 . ditto.       |                    |                     |
| ,, 6             | Ship, Brighton .                | Smith . .       | .        | America . . .                        | . ditto . .       | 350 . ditto.         |                    |                     |
| ,, 6             | Schooner, Jess .                | Hay . .         | 80       | New South Wales.                     | Sydney . . .      | merchandise .        | . .                | Coasting Trade.     |
| ,, 12            | Ship, Favourite .               | Bunting . .     | .        | America . . .                        | Sperm oil fishery | 1,150 barrels oil.   |                    |                     |
| ,, 12            | America (ship) .                | Coffin . .      | .        | . ditto . . .                        | . ditto . .       | 1,000 . ditto.       |                    |                     |
| ,, 12            | Ship, Mary and Martha.          | Coffin . .      | .        | . ditto . . .                        | . ditto . .       | 1,400 . ditto.       |                    |                     |
| ,, 12            | Barque, L'Asia .                | Jay . .         | .        | France . . .                         | Black oil fishery | 1,500 . ditto.       |                    |                     |
| ,, 28            | H. M. Brig, Victor              | Crozier . .     | 400      | Royal Navy . .                       | —                 | —                    |                    |                     |
| Oct. 8           | Ship, Lydia . .                 | Ramsdale .      | .        | America . . .                        | Sperm oil fishery | 1,400 barrels oil.   |                    |                     |
| ,, 14            | Barque, Bolina .                | Ewing . .       | 243      | New South Wales.                     | Sydney . . .      | merchandise .        | . .                | River Thames.       |
| ,, 14            | Ditto, Jane . .                 | Barber . .      | 221      | . ditto . . .                        | Sperm oil fishery | 1,050 barrels oil.   |                    |                     |
| ,, 14            | Ditto, Earl Stanhope.           | Salmon . .      | 295      | . ditto . . .                        | . ditto . .       | 1,200 . ditto.       |                    |                     |
| ,, 14            | Ditto, Lucy Ann .               | Richards .      | 214      | . ditto . . .                        | . ditto . .       | 500 . ditto.         |                    |                     |
| ,, 29            | Brig, Mediterranean Packet.     | Green . .       | 157      | . ditto . . .                        | Coasting trade .  | New Zealand produce. | . .                | for Sidney.         |
| ,, 29            | Ship, Martha . .                | Potter . .      | .        | America . . .                        | Sperm oil fishery | 1,700 barrels oil.   |                    |                     |
| Nov. 1           | Ditto, Sarah Lee .              | Weeks . .       | .        | . ditto . . .                        | . ditto . .       | full ship.           |                    |                     |
| ,, 3             | Barque, Nimrod .                | Browne . .      | 231      | New South Wales.                     | . ditto . .       | 500 barrels oil.     |                    |                     |
| ,, 3             | Ditto, Caroline .               | Roberts . .     | 196      | . ditto . . .                        | . ditto . .       | 900 . ditto.         |                    |                     |
| ,, 3             | Ditto, Harriet . .              | Christie . .    | 300      | London . . .                         | . ditto . .       | clean ship.          |                    |                     |
| ,, 8             | Ship, Friendship .              | West . .        | .        | America . . .                        | . ditto . .       | 2,700 barrels oil.   |                    |                     |
| ,, 12            | Schooner, Harlequin             | Anderson .      | 71       | New South Wales.                     | Sydney . . .      | merchandise.         |                    |                     |
| ,, 12            | Ditto, Industry .               | Skelton . .     | 64       | Hokianga, New Zealand.               | . ditto . .       | . ditto.             |                    |                     |

B 2



| Date<br>of<br>Arrival. | Description<br>and<br>Name of Vessel. | Name<br>of<br>Master. | Tonnage. | Place or Country<br>to<br>which belonging. | From whence.      | Cargo.                    | Date<br>of<br>Departure. | Remarks.                                        |
|------------------------|---------------------------------------|-----------------------|----------|--------------------------------------------|-------------------|---------------------------|--------------------------|-------------------------------------------------|
| Nov. 12                | Ship, Seringapatam                    | Wright . .            | .        | London . . .                               | Sperm oil fishery | 1,200 barrels oil.        |                          |                                                 |
| ,, 12                  | Barque, Clarkstone                    | Allan . .             | 278      | New South Wales.                           | . ditto . .       | 1,350 . ditto.            |                          |                                                 |
| ,, 12                  | Ditto, Cheviot. .                     | Bateman .             | 350      | Van Diemen's Land                          | . ditto . .       | 1,000 . ditto.            |                          |                                                 |
| ,, 12                  | Schooner, Marian<br>Watson.           | Harewood .            | 160      | New South Wales.                           | East Coast . .    | merchandise.              |                          |                                                 |
| ,, 12                  | Ditto, Criterion .                    | Bridges . .           | .        | America . . .                              | Tahiti . . .      | . ditto.                  |                          |                                                 |
| ,, 12                  | Ditto, Henry Free-<br>ling.           | King . .              | 110      | London . . .                               | . ditto . .       | . .                       |                          | Mission vessel<br>of the Society<br>of Friends. |
| ,, 29                  | Ship, Roger Wil-<br>liams.            | Mayhew . .            | .        | America . . .                              | Sperm oil fishery | 1,100 barrels oil.        |                          |                                                 |
| ,, 29                  | Barque, Montreal.                     | Stewart . .           | .        | London . . .                               | . ditto . .       | 1,700 . ditto.            |                          |                                                 |
| Dec. 1                 | Ditto, Elizabeth .                    | Fowler . .            | 363      | New South Wales.                           | . ditto . .       | 1,700 . ditto.            |                          |                                                 |
| ,, 1                   | Ship, Erie . .                        | Dennis . .            | .        | America . . .                              | . ditto . .       | 1,500 . ditto.            |                          |                                                 |
| ,, 1                   | Barque, Psyche .                      | Norris . .            | 250      | New South Wales.                           | . ditto . .       | 1,050 . ditto.            |                          |                                                 |
| ,, 1                   | Ditto, Ann. . .                       | How . .               | .        | London . . .                               | . ditto . .       | 800 . ditto.              |                          |                                                 |
| ,, 11                  | Ditto, Betsy . .                      | Irving . .            | .        | Leith . . .                                | . ditto . .       | 1,700 . ditto.            |                          |                                                 |
| ,, 11                  | Ditto, Mary . .                       | Dryborough            | .        | New South Wales.                           | . ditto . .       | 1,600 . ditto.            |                          |                                                 |
| ,, 15                  | Brig, Genii . .                       | Banks . .             | 164      | . ditto . . .                              | . ditto . .       | 500 . ditto.              |                          |                                                 |
| ,, 15                  | Barque, Wolf . .                      | Evans . .             | 265      | . ditto . . .                              | . ditto . .       | 800 . ditto.              |                          |                                                 |
| ,, 15                  | Narwhul (barque)                      | Brind . .             | 350      | London . . .                               | . ditto . .       | 1,000 . ditto.            |                          |                                                 |
| ,, 15                  | Ship, Dartmouth .                     | Starbuck .            | .        | America . . .                              | . ditto . .       | 500 . ditto.              |                          |                                                 |
| ,, 21                  | Ditto, Vestal . .                     | Taylor . .            | .        | London . . .                               | Sydney . . .      | Colonial produce.         |                          |                                                 |
| ,, 21                  | Schooner, Currency<br>Lass.           | Edwards . .           | 90       | New South Wales.                           | East Coast . .    | New Zealand pro-<br>duce. |                          |                                                 |
| ,, 21                  | Ship, Rebecca Simms                   | Ray . .               | .        | America . . .                              | Sperm oil fishery | 100 barrels oil.          |                          |                                                 |
| ,, 21                  | Barque, Tamar . .                     | Clapham .             | 197      | New South Wales.                           | . ditto . .       | 850 . ditto.              |                          |                                                 |
| ,, 21                  | Ship, Bombay. .                       | Lawson . .            | .        | London . . .                               | . ditto . .       | 200 . ditto.              |                          |                                                 |

TOTAL NUMBER . . . . . 50

SUMMARY of all the VESSELS which have visited the Bay of Islands during the Year 1836.

|                                                                                      |    |                                   |     |
|--------------------------------------------------------------------------------------|----|-----------------------------------|-----|
| British Ships of War . . . . .                                                       | 2  | Brought Forward . . . . .         | 93  |
| — Whaling Ships . . . . .                                                            | 25 | American Whaling Ships . . . . .  | 49  |
| — Trading Vessels . . . . .                                                          | 2  | Ditto Trading Vessels . . . . .   | 5   |
| New South Wales Whaling Ships . . . . .                                              | 35 | French Whaling Ships . . . . .    | 3   |
| New South Wales Trading Vessels, including<br>Vessels owned at New Zealand . . . . . | 26 | Tahitian Trading Vessel . . . . . | 1   |
| Van Diemen's Land Whaling Ships . . . . .                                            | 4  | Total Foreign Vessels . . . . .   | 58  |
| Total British and British Colonial . . . . .                                         | 93 | Total of Vessels . . . . .        | 151 |

N. B.—Small Vessels engaged exclusively in the Coasting Trade are not included in the above List, and the same Vessels visiting the Bay of Islands more than once within the above period are numbered as distinct Vessels on each visit.  
Bay of Islands, 17th Jan. 1837. James Busby, British Resident.

(C.)

(C.) From James Busby, Esq. British Resident at New Zealand, to the Honourable the Colonial Secretary of New South Wales.

(No. 112.)

British Residency, Bay of Islands,  
16th June 1837.

SIR,

I HAVE the honour to acknowledge the receipt of your Despatch of the 16th ultimo, which was delivered to me on the 27th of the same month by Captain Hobson, of His Majesty's ship "Rattlesnake."

By my letter of the 4th ultimo, No. 111, his Excellency Sir Richard Bourke would perceive that the fears I had formerly expressed, that war was about to break out in this immediate neighbourhood, had been realized; but that, contrary to all expectation, the conduct of the natives towards the British settlers had been on the whole most exemplary. I am happy to add, that it so continued up to the arrival of the "Rattlesnake."

Under circumstances so favourable, an attempt was made by Captain Hobson, accompanied by a party of the missionaries and myself, to mediate between the contending parties, but without effect. The chiefs on Pomare's side, whom I formerly represented as being unfriendly to Pomare's procedure, although in a manner constrained to take part with him, were most favourable to the proposition, and requested that one of two persons whom they named, of the opposite party, should meet them to adjust the preliminaries; but Pomare himself turned a deaf ear to every argument that could be urged.

The overtures of the well-disposed chiefs were nevertheless delivered, but they were received by the Ngapulies in the most unfriendly spirit; and, on its being too evident that all attempts at mediation were fruitless, Captain Hobson concluded by cautioning them as to their conduct to British subjects, assuring them that if any violence should be offered



by either party to these, it would then become his duty to take satisfaction, and that he would do it effectually.

Since the date of my last Despatch, the war canoes have been almost every day in motion, but there have been only two encounters of the parties worthy of notice. In these two affairs about thirty persons were killed. The Ngapulies have lost another chief of the first rank, and in other respects have been the severest sufferers from the commencement of hostilities. The injury for which they took up arms has consequently been aggravated by every attempt to obtain reparation.

A fact has also come to my knowledge, which gives a greater colour of truth to Pomare's original accusation, than any circumstance of which I was previously aware, namely, that the woman of whom it was alleged that she had been murdered and eaten on being landed from the ship, had formerly been the wife of the person who was charged with her murder. It was in former times a very common case for a chief to put to death any of his wives who had deserted or been unfaithful to him.

But whatever may have been the real circumstances or motives which originated the present war, there is not the least probability of its being speedily brought to a termination. Pomare's party appear confident in the strength of their position, and the Ngapulies are evidently actuated by the most irritated and vindictive feelings; and there seems no reason to doubt that they will speedily be joined by the powerful tribe of Rarawa, from the more northerly parts of the island.

Under these circumstances, although the visit of His Majesty's ship "Rattlesnake" at this juncture is peculiarly important, as making it appear to the natives that a vigilant guardianship is maintained over His Majesty's subjects who are settled here, and that assistance is never at a great distance, should it be required; yet it is impossible to look to the continuance of this contest without the most serious alarm.

Titore, who was the most influential of the Ngapulie chiefs in preserving order in the town Kororakia, where the natives and British are mingled in the greatest numbers, died a few days ago; and in several instances already I have heard that the loss of his influence has been felt to the detriment of the British inhabitants. Whatever influence the other chiefs possess, will also be weakened when their provisions become exhausted; and as little or no cultivation will be attempted while things remain in their present position, it may naturally be expected that the natives will become reckless in proportion to their want of the means of subsistence.

Under these circumstances, his Excellency will be prepared for my entire concurrence in his opinion that any additional expenditure, with the view of giving increased efficiency to my office as at present constituted, would be altogether fruitless; nor would the Act of Parliament to which his Excellency refers, if the powers it was intended to impart should be limited to the controlling of British subjects, be of much service, in the state to which the affairs of this country have arrived. What is wanted is a paramount authority, supported by a force adequate to secure the efficiency of its measures.

Without the establishment of such an authority by some civilized state, I cannot, after a full consideration of every circumstance connected with the actual condition of this people, see the least prospect of any permanent peace being established amongst them whilst there remains a stronger man to murder his weaker neighbour. There are few persons so insignificant as not to have it in their power, at any time, to plunge the country into war. The crime of an individual involves his most distant connexions, as each of them is a legitimate object of retaliation to the connexions of the injured party. It is in vain to represent to them that the criminal alone should suffer; their answer is ready, and it is perfectly consistent with the dictates of natural justice, namely, that his tribe will not surrender him to suffer for his crime, and by standing up in his defence they have become participators in it; while on the other hand, provided the criminal be not a slave, his connexions are never without a grievance, more or less ancient, which they bring forward as a justification of his crime. Thus, by every attempt to administer the law of retaliation—the rude justice of nature—the breach is made wider. New deaths involve more distant connexions. Tribe after tribe becomes a party to the contest; and peace, or rather an intermission of murders, can only be procured when one of the parties becomes too weak to continue the contest, or when the loss on both sides happens to be so nearly balanced, that neither party has an advantage over the other.

In this way has the depopulation of the country been going on, till district after district has become void of its inhabitants; and the population is, even now, but a remnant of what it was in the memory of some European residents.

It would, in relation to the subject on which I intend to enter in this Despatch, be an interesting and important question, did there exist means of bringing it to a satisfactory solution—How far this depopulation of the country, which has at least been rapid in proportion to the increase of its intercourse with the whites, was originated by the latter, and may justly be chargeable to them? My own opinion is, that all the apparent causes which are in operation are quite inadequate to account for the rapid disappearance of the people.

The introduction of fire-arms is alleged as one cause, but there seems good reason to doubt whether their wars were less sanguinary before fire-arms were introduced. The use of intoxicating liquors and tobacco are less questionable evils: and though their direct influence cannot, I think, be stated as at all remarkable, they are, in all probability, the original causes of diseases with which their immediate connexion is not apparent.

Venereal diseases are another means of undermining the constitution of the multitudes who, in one shape or other, are subjected to them: and besides these sources of disease and death, the abuse of the females who are sent by their masters or relations on board ships,

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to John Backhouse,  
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12th December 1838.

Enclosure 5 in No. 1.  
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and the murder of the fruits of this intercourse, which is believed by those likely to be best informed to be of frequent occurrence, are undoubtedly powerful checks to increase, and ought to be largely allowed for in estimating the causes which are in operation for the depopulation of the country. But, on the other hand, it must not be lost sight of that the mortality has not been confined to those who have been the victims of violence, or who have been exposed to the effects of vices or diseases of foreign origin. Disease and death prevail even amongst those natives who, by their adherence to the missionaries, have received only benefits from English connexions; and even the very children who are reared under the care of the missionaries are swept off in a ratio which promises, at no very distant period, to leave the country destitute of a single aboriginal inhabitant.

The natives are perfectly sensible of this decrease; and when they contrast their own condition with that of the English families, amongst whom the marriages have been prolific in a very extraordinary degree of a most healthy progeny, they conclude that the God of the English is removing the aboriginal inhabitants to make room for them; and it appears to me that this impression has produced amongst them a very general recklessness and indifference to life.

The foregoing picture of the actual condition of the New Zealanders will not, I think, be considered as overcharged by any one who has an intimate acquaintance with the state of their country. I have, as impartially as I could, stated both sides of the question; I do not concur in opinion with those who charge altogether upon their intercourse with British subjects, directly or indirectly, the present miserable condition of the New Zealanders; but I think the most favourable view of that intercourse from its origin, and independently of the distressing evils which I have pointed out in former Despatches, is just beginning to manifest themselves, as the consequence of the sale of their lands to British subjects will prove that the New Zealanders have at least some claim of justice upon the protection of the British Government; and certainly a very strong claim, not to be overlooked in those measures which are dictated by the present humane policy of the British Government towards the aboriginal inhabitants of countries where British settlements are established.

Unless the country should be taken under the efficient protection of Great Britain, or some other foreign power should interfere, the natives will go on destroying each other, and the British will continue to suffer the accumulating evils of a permanent anarchy. Nor can the latter make common cause against the natives with any prospect of promoting general security. The nature of their pursuits, the distance of their habitations, and, above all, the character of the majority of them, would render any combination for their general defence at once unworthy of reliance, and incompatible with the objects of their settlement in the country.

I have in former communications detailed so fully the relative situation of the British and the natives, and the frequent causes of contention existing between them, that I will forbear to enter upon the subject in the present Despatch. For the same reason I will avoid any reference to the importance of British interests, and the necessity for their protection, irrespective of the condition either of the natives, or of the British who have actually settled in their country. But I will proceed at once to submit the outline of a plan of government, which I humbly venture to think would give as great a degree of peace and security to all classes of persons in this country as is enjoyed by the inhabitants of the majority even of civilized states.

The plan which I would now more fully submit was suggested in my Despatch of the 26th January 1836, No. 85. It is founded upon the principle of a protecting state, administering in chief the affairs of another state in trust for the inhabitants, as sanctioned by the treaty of Paris, in the instance of Great Britain and the Ionian Islands, and as applied, I believe, in various instances, on the borders of our Indian possessions.

All my experience subsequent to the date of that suggestion has strengthened my belief that the principle is peculiarly applicable to this country; and that the details could be arranged with a degree both of efficiency and economy which at first sight might appear far from probable.

The chiefs who were parties to the Articles of Confederation and Declaration of Independence in October 1835, together with those who have subsequently adhered to it, include, with very few exceptions, the whole of the chiefs of influence in the northern parts of the island, and the adhesion of the remainder could at any time be procured.

Whatever acts approaching to acts of sovereignty or government have been exercised in the country, have been exercised by these chiefs in their individual capacity as relates to their own people, and in their collective capacity as relates to their negotiations with the British Government, the only Government with which the chiefs or people of New Zealand have had any relations of a diplomatic character. Their flag has also been formally recognized by the British Government as the flag of an independent state.

The Articles of Confederation having centralized the powers of sovereignty exercised both *de jure* and *de facto* by the several chiefs, and having established and declared the basis of a constitution of government founded upon the union of those powers, I cannot, I think, greatly err in assuming that the congress of chiefs, the depositing of the powers of the state as declared by its constitution, is competent to become a party to a treaty with a foreign power, and to avail itself of foreign assistance in reducing the country under its authority to order; and this principle being once admitted, all difficulty appears to me to vanish.

The appearance of a detachment of British troops, in fulfilment of a treaty with the confederated chiefs, would not be a taking possession of the country, but a means of strengthening the hands of its native government; while, in return for this subsidiary force, it might be stipulated that the British settlers should be subject to the operation of no laws but such



as should emanate from or be consented to by their own Government and exercised under the control and directions of its officers; and that the revenues of the country should be made applicable, in the first instance, to the support of a civil government, to be established by the protecting power, and the maintenance of the quota of troops stipulated for by the treaty.

In theory and ostensibility the government would be that of the confederated chiefs, but in reality it must necessarily be that of the protecting power. The chiefs would meet annually or oftener, and nominally enact the laws proposed to them; but in truth the present race of chiefs could not be intrusted with any discretion whatever in the adoption or rejection of any measure that might be submitted to them, moral principle, if it exist amongst them at all, being too weak to withstand the temptation of the slightest personal consideration. The congress would, in fact, be a school in which the chiefs would be instructed in the duties required of them, and the authority confided to them as conservators of the peace in their separate districts, to which they would also carry the knowledge of the laws enacted during its sittings.

As conservators of the peace, a small salary would be given to them; and this, together with the distinction conferred by the employment, would secure beyond all doubt the entire devotion of the chiefs to the wishes of the resident. A medal containing the name of each chief, and of the district over which his authority extended, would be another highly esteemed distinction.

To complete the means of establishing an entire control over the population, it would be only necessary to establish a school in each considerable village, with a schoolmaster paid in proportion to the number of individuals he should have under his tuition during the year. Schoolmasters already exist in many villages, and could, without difficulty, soon be procured for the whole by the aid of the missionaries. An annual examination of these schools, and a distribution of prizes of trivial value, would bring the whole population under the supervision of the government; while a periodical newspaper might, at the same time that it conveyed the news of the day, be made the means of instructing the natives in those relative duties of the people and their rulers which are familiar to all ranks of the population under established governments, but of which the New Zealanders have scarcely as yet conceived an idea.

So simple and primitive are the arrangements which, with entire confidence in their efficiency, I would propose for the government of the native population; nor could the expense of these arrangements, for several years at least, exceed 1000*l.* a year, allotting a more considerable salary to certain leading chiefs, to be elected by the congress, with the sanction of the resident, for the purpose of acting with him as a native council and executive authority, and providing also for the accession of more distant tribes, who would hasten to join the confederation when its objects should become understood, and whose adherence it is indeed, under any circumstances, highly necessary to procure, as a bar to the interference of any foreign power.

The influence of the government amongst the tribes south of the present confederation would of course be more limited than nearer to the seat of government. But there also the intercourse of British subjects, and the evils for which they are responsible, are less felt. As these extended, the occasion and the means would arise for making the government efficient throughout the island. But, even from the first, the existence of a power which would claim the right of deciding disputes and maintaining peace, would be most beneficially felt.

Although it would be absolutely necessary that the chiefs of the confederation should receive such a salary as, together with the distinction conferred by their being members of congress, and conservators of the peace, would ensure their support of the measures of the resident, yet I do not conceive that there would be the slightest danger of any law which should be submitted to the chiefs being unpalatable to them: so little complicated are their social relations, that the most simple and obvious principles of natural justice and equity require only to be stated and explained, in order to form a code which would meet every case that is likely for many years to occur. That difficulties would for a time arise in the administration of the laws, there can be little doubt. It is scarcely to be expected that the chief of a tribe would be the instrument of apprehending a criminal immediately connected with himself; but, on the other hand, he would never think of affording him protection against a native police which could fall back upon the British troops for support. In many cases the vengeance of the laws might not overtake the guilty party, but the act of a single criminal would at once and for ever cease to be the occasion of civil war.

To those unacquainted with the actual *status* of a New Zealand chief, it may perhaps appear improbable that he would give up his own proper rank and authority, and become what would be, in fact, little better than an instrument in the hands of the British resident. But, in truth, the New Zealand chief has neither rank nor authority but what every person above the condition of a slave, and indeed the most of them, may despise or resist with impunity. It would, in this respect, be to the chiefs rather an acquisition than a surrender of power.

But the conduct of the chiefs in their individual capacity would of course be regulated by the laws enacted by themselves as a collective body, and provision might be made for punishing by a pecuniary mulct, by a temporary suspension from office as a conservator of the peace, or by a degradation from the rank of a chief of congress of any chief who should fail in the duties required of him. This could in almost all cases be done without risking the disaffection of his tribe, who would without any difficulty be induced to propose another of their leading men to be elected by the congress, and sanctioned by the resident in his stead.

It would of course rest with the wisdom of the British Government to determine what measures should be resorted to for the government of his Majesty's subjects; but all diffi-

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culties in the way of such an arrangement, are, I conceive, removed by the existence and recognition of a New Zealand Government. Whatever laws His Majesty's Government should consider suitable for the protection and control of the King's subjects would be proposed to, and, as of course, become acts of the legislature of New Zealand.

Whatever courts of judicature His Majesty might deem necessary would be established under the same sanction.

Whether the British settlements in this country have as yet attained sufficient importance to require the establishment of a supreme court of civil and criminal jurisdiction may be doubted; but when the necessity of providing for the administration of justice amongst the natives, consequent upon the establishment of a government, and the enactment of laws, is considered, the question assumes a different aspect. The country itself, possessing no materials for such institutions, can look alone to the protecting power to afford this as well as the other means of making its government effective.

Amongst the missionaries and catechists of Church and the Wesleyan missionary Societies there is a number of persons qualified to act in this country as justices of the peace, and there could, at least in the case of those who are laymen, exist no objection to their acting in that capacity on the part of the societies to which they belong. There are even now also two or three of the settlers who are competent to the same office. The missionaries would prove an invaluable and almost indispensable adjunct to the judge of a criminal court, by acting as assessors in all cases in which natives should be concerned. The trials might also be conducted in the presence of a jury of natives, not constituted in any respect as judges in the case, but rather as compurgators with the accused, and as witnesses to the country of his having had a fair trial, conformably with what would appear from Sir F. Palgrave's researches to have been the original constitution of juries in England.

Thus would the way be prepared for confiding to the people the trust of jurymen, in like manner as to the chiefs of congress that of legislators, when a generation should arise sufficiently enlightened and virtuous to be capable of those high functions.

From amongst the missionaries and the settlers might be selected a council to advise the resident, consisting of two or three of the former, who might be nominated after communicating with their constituents at home, and two of the latter who would more immediately represent the interests and wishes of the settlers generally. By giving to the persons thus chosen the right, under such limitations as might be considered proper, of bringing under the consideration of the resident and such council any questions which they might deem of public importance, and of having their opinions, when they differed from those of the resident, recorded in its proceedings, and transmitted to His Majesty's Government, the resident would be able to avail himself of all the aid which the information and experience of the whole body of missionaries, and of settlers generally, could afford.

Unless a defined and specific share in the government of the country be allotted to the missionaries, the British Government has no right to expect that that influential body will give a hearty support to its representative. In points on which their own opinion is different from his, and these will constantly arise, they will persuade themselves that it is their duty to secede from him; and should they, in the character which they have assumed to themselves of guardians to the natives, conceive it to be their duty to use their influence in opposition to his measures, they will occasion him no little embarrassment, even when vested with the full powers of a government.

His Excellency is in part aware that I have already had some difficulties of this nature to contend with. But after the missionaries had joined the settlers in attempting to force upon me the adoption of a measure which, when subsequently ordered by His Excellency, they requested might not be adopted, because the short experience of the interval had clearly demonstrated the correctness of my opinion and the erroneousness of their own, I thought they would naturally conclude in future that it was possible for the conclusions of a single mind, when directed to one object, to be more correct than the collective opinions of many persons whose minds are altogether engrossed with the multitude of details which fill up the attention of men, occupied as they are, leaving neither leisure nor capacity for more enlarged and comprehensive views. I conceived that I had gained at least this point, that they would respect my opinions even when they might not feel disposed to second my measures. I am grieved to say that in this I have been disappointed, for no other reason that I can divine, than that I preferred my own opinion to theirs upon a point of duty which they took upon them to dictate to me; they have latterly kept aloof from any communication with me; and by their conduct in a recent instance they have put it out of my power, while our present relations continue, to make any further application or reference to them on matters connected with the King's service in this country. I had requested that a meeting of them and their Wesleyan brethren might take place at my house, in order to consult whether it might not be prudent for them to induce the chiefs to take the opportunity afforded by the delivery of the King's message to petition His Majesty for assistance in reducing their country to order, and establishing in it an efficient government. The Wesleyans sent a suitable apology; but the missionaries of the Church Missionary Society, with one exception, absented themselves without one word of previous or subsequent explanation.

Having been specially accredited to the missionaries of the Church Missionary Society, and directed to consult with them, it became my duty to make this explanation, and I have introduced it in connexion with the subject of this Despatch, because it is too important to be lightly considered in any future arrangements for the government of this country.

It is impossible that men could be found whose opinions and sentiments in general are more in accordance than those of the missionaries and my own; nor could any person



adopt towards them a more conciliatory line of conduct than I have invariably done. But I have been placed with respect to them in a false position; on their side was the accumulated experience and influence of numbers acting in concert during many years of devotion to the secular as well as the spiritual interests of the natives, and with the command of whatever funds they might judge necessary to render their labours efficient.

In all respects, except the advantage of having acted in public business of some importance before my arrival in this country, my own situation was a painful contrast to theirs. In such circumstances it need not excite much surprise that they should prefer their own opinions to mine, and, on their being discordant, that they should pursue their own views of duty, and leave me to mine. But I am not more surprised than distressed at the inconsistency of their recent conduct, believing them, as I still do, to be faithful and sincere men, and zealous in the pursuit of their sacred duties.

With regard to the number of troops which it might be necessary to maintain, it would, I think, require little knowledge of military tactics to satisfy any one who has witnessed any thing of the warfare of the natives, that one hundred English soldiers would be an overmatch for the united forces of the whole islands. But in fact there is little risk of even two tribes uniting to oppose them. There is no dominion any where existing to rival that which would call the British government to its aid; nor is any chief possessed, as such, of any sovereign or territorial rights, in support of which he might induce others to join him in resisting the established power. The rights of property being once recognised, and measures taken to ascertain and fix those rights, I cannot conceive any object for which the smallest number of men could be induced to unite in resisting the government, unless in the administration of justice and so great and manifest a blessing would, even under the least perfect system of government and judicature, prove to the distracted inhabitants of this country that the most influential men amongst them would succeed in inducing few indeed to resist its exercise. But there is no reason why a body of the English settlers might not be enrolled and trained as a militia to act with the regular troops in any emergency; nor could any objection exist to the training of a native force, although it appears to me that the natives are too independent in their circumstances to submit to military discipline for military pay.

Simultaneously with the establishment of a government, it would be absolutely necessary that means should be resorted to for ascertaining and fixing upon equitable principles the titles of British subjects to land which they claim to have purchased from the natives. This is a subject of so much importance, and which involves so deeply the character of the British Government, that I humbly submit it might be proper for his Majesty to issue a special commission for this purpose to persons not connected or likely to be connected with this country.

After the present claims should be disposed of, it would be necessary to declare all purchases void, of which sufficient notice had not been given to the Government, in order that the real proprietors of the land might be ascertained. Humanity would also require that certain districts should be fixed in perpetuity in the native proprietors, and that it should be enacted that all claims to the possession of such lands by foreigners, howsoever acquired, should be absolutely null and void.

I have in previous communications indicated in part the sources from which a revenue might be raised to meet the expense of the arrangements above proposed. I shall not add to this already too extended Despatch by entering into any particulars upon this head. I shall simply state that the number of ships which visited the Bay of Islands alone during the year 1836 amounted to 151, and the number during the six months of the present year not yet concluded to 72, and most of them were of a large class.

A simple tonnage duty on these vessels would go a great way towards meeting the civil expenditure of a government such as I have proposed. But there is also a very extensive trade in spirits and tobacco, from which a revenue might be raised, not only without difficulty, but most beneficially for public morality and good order. In short, the trade of New Zealand is sufficiently extensive even now to afford ample means for the support of an efficient government, and the country possesses resources to meet whatever increase of expenditure its circumstances may require. It would only, perhaps, be necessary for the British Government to issue a small loan, chiefly for several necessary public buildings and immediate expenses in advance of the revenues of the New Zealand government, to be repaid by instalments when these revenues should be realized.

The above are principally the views which, in applying to His Excellency Sir Richard Bourke for leave to proceed to England, it was my object to bring under the immediate notice of the Home Government. I trust it will require no apology for having advanced them now, his Excellency in his last Despatch having recognised the necessity for some further measures with regard to this country. Although he has only instructed me to suggest such as should fall within the limits defined by His Majesty's Government, I have made an attempt to point out by what means the extension of efficient protection to His Majesty's subjects might be made compatible with such a regard to the rights of the New Zealanders, as an independent state, as might satisfy the reasonable scruples of foreign governments, and thus remove the difficulties which I have humbly presumed might influence the Secretary of State in defining those limits.

It might well be considered presumption in me, even if qualified for such a task, should I enter into the question how far the just and legitimate possession of lands in a foreign country entitles the possessors of those lands to require from the actual sovereigns of the country the ordinary protection of a government, and, if this is from incapacity or other causes withheld, to obtain the aid of the parent state in governing themselves. If I am rightly informed, the whole coast line from Cape Bult, including the noble harbour of the

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Bay of Islands, and extending as far as Wangaroa, forty miles to the northward of the bay, has, with trivial exceptions, passed from the possession of the natives into that of British subjects. Nor has the consideration given been in all cases so disproportioned to the value of lands in an unsettled country, or even to the returns which the capital thus invested is capable of yielding, as to stamp such transactions universally with the character of injustice. Most of the valuable forests in the interior have changed their ownership; and on the western coast an extensive territory is also claimed by British subjects.

When His Majesty's Government become aware of these facts, it is possible they may consider that the course of events has so altered the relation of this country to the rest of the world, as to demand the application of a different principle than that which, in an abstract view of its previous condition, may have been considered expedient and just; and that His Majesty may be advised to grant a charter of government to the colony of British subjects who are established in it, leaving the natives in the full possession of their abstract rights, so far as they have not conceded them to the colonists, and providing only against their suffering injustice at the hands of the latter.

There can be no doubt that the establishment of any authority whatever would be an incalculable advantage. But I cannot here avoid submitting, with all humility, a suggestion which has occurred to me, with no common force, in the course of my observations on the state of this country; namely, that it seems not more consistent with the arrangements of Divine Providence that an infant people which, by its intercourse with a powerful state, is subject to all the injury and injustice which weakness and ignorance must suffer by being thrown into a competition of interests with knowledge and power, should as naturally fall under and be not less entitled to the protection of the powerful state than the weakness of infancy and childhood is entitled to the protection of those who were the instruments of bringing it into an existence which requires such protection. I may go further, and submit that this would seem the instinct of natural justice, as exemplified by the reference which the chiefs made to the King of England in their declaration of independence. They prayed "that His Majesty would continue to be their parent, and that he would become their protector." The sentiment and the language were their own.

I have, &amp;c.

(Signed)

JAMES BUSBY,

*British Resident, New Zealand.*

(D.)

From JAMES BUSBY, Esq., British Resident, New Zealand, to the Honourable the Colonial Secretary of New South Wales.

(No. 117.)

*British Residency, Bay of Islands,  
13 July 1837.*

SIR,

(D.)

I HAVE the satisfaction to acquaint you, for the information of His Excellency, Sir Richard Bourke, that peace has been concluded amongst the greater part of the parties who were engaged in the late war; and there seems, I think, no reason to doubt that those who are still inclined to continue it, will have to yield to the general voice.

With the exception of the few who still hold out, the connexions of those who were killed in the various encounters of the parties have forgone their right of retaliation, and the tribes with whom the war first originated remain for the present in the situation in which they were when hostilities commenced. But should the woman whose alleged murder was the ostensible cause of the war prove, on the return of the ship from which she was said to have been landed, to be still alive, in that case a portion of land belonging to Pomare's tribe is to be transferred to the other party, as a satisfaction for the woman murdered by Pomare's people.

It appears also from recent accounts from the southward, that peace had been made by the tribes of the bay of plenty.

I have, &amp;c.

(Signed)

JAMES BUSBY,

*British Resident, New Zealand.*

No. 2.

From JOHN BACKHOUSE, Esq., to JAMES STEPHEN, Esq.

No. 2.

SIR,

*Foreign Office, 31st December 1838.*John Backhouse, Esq.,  
to James Stephen, Esq.  
31st December 1838.

I HAVE laid before Viscount Palmerston your letter of the 12th instant, suggesting the expediency of appointing a Consul at New Zealand; and I am to state to you, in reply, that Lord Palmerston concurs in the opinion expressed by Lord Glenelg



upon this subject, and will take the necessary steps for including the salary and expenses of that Consul in the Consular Estimate.

Lord Palmerston further directs me to state, that, considering the purposes and objects for which this Appointment is to be made, his Lordship would be glad to know if there is any person whom Lord Glenelg thinks peculiarly qualified for the situation.

No. 2.

John Backhouse, Esq.  
to James Stephen, Esq.  
31st December 1838.

James Stephen, Esq.,  
&c. &c. &c.

(Signed)

I am, &amp;c.,

J. BACKHOUSE.

(No. 251.)

No. 3.

From Lord GLENELG to Governor Sir GEORGE GIPPS.

SIR,

Downing Street, 1st December 1838.

No. 3.

WITH reference to former correspondence, on the subject of the state of New Zealand, I have to acquaint you that it is the intention of Her Majesty's Government to appoint an officer who will be vested with the powers, and will assume the character of British Consul at New Zealand.

Lord Glenelg to Sir  
George Gipps.  
1st December 1838.

I hope very shortly to be able to communicate to you the selection of the officer for this appointment. In the mean time I have to request that you will acquaint Mr. Busby of the intended arrangement. He will have been, in some measure, prepared for a discontinuance of his present office by the intimation contained in my despatch addressed to your predecessor of the 28th of October, 1835, No. 65. I trust that you may have an opportunity, should he desire it, of employing him in some suitable office under your Government.

I transmit, for your information, copies of a correspondence between this department and the Board of Admiralty, relative to the more frequent visitation of New Zealand by one of Her Majesty's Ships of War on the Eastern Station.

I have, &amp;c.

Governor Sir George Gipps,  
&c. &c. &c.

Mr. Stephen,  
15th August 1838.  
Sir John Barrow,  
15th August 1838.

(Copy.)

(Enclosure 1 in No. 3.)

From JAMES STEPHEN, Esq. to C. WOOD, Esq.

SIR,

Downing Street, 15th August 1838.

I am directed by Lord Glenelg to request that you will state to the Lords Commissioners of the Admiralty, that as Her Majesty's ship "Herald" is about to be despatched to the East India Station, his Lordship is anxious that instructions may be given to the Commander-in-Chief of Her Majesty's Naval Forces on that Station, that the islands of New Zealand may be visited as frequently as possible by one of Her Majesty's ships.

Enclosure 1 in No. 3.

In the present state of those islands, his Lordship considers that instructions of this nature are absolutely necessary for the safety of British subjects, who are in the habit of resorting there in considerable numbers; and for the protection of the natives from injury and aggression on the part of British subjects.

With a view to this object, Lord Glenelg would recommend that the officers in command of any of Her Majesty's ships employed on this service, should be directed to place themselves in communication with the Governor of New South Wales, and with the Resident Agent at New Zealand.

I am, &amp;c.

(Signed)

J. STEPHEN.

(Enclosure 2 in No. 3.)

From Sir JOHN BARROW, to JAMES STEPHEN, Esq.

SIR,

Admiralty, 15th August 1838.

With reference to your letter of this day's date, conveying the wish of Lord Glenelg, that instructions may be given to the Commander-in-Chief of Her Majesty's Naval Forces, on the East India Station, that the islands of New Zealand may be visited as frequently as possible by one of Her Majesty's ships, I am commanded by my Lords Commissioners of the Admiralty to acquaint you, for Lord Glenelg's information, that a copy of your letter has been sent to Rear-Admiral Sir F. L. Maitland, with directions to him to give orders to this effect.

Enclosure 2 in No. 3.

I have, &amp;c.,

JOHN BARROW.

C 2



No. 4.

No. 4.

Standish Motte, Esq.  
to the Marquis of  
Normanby.

4th March 1839.

Marked

Private and Confidential.

From STANDISH MOTTE, Esq., to the MARQUIS of NORMANBY.

6, Henrietta Street, Covent Garden,  
March 4, 1839.

MY LORD,

ON behalf of the New Zealand Colonization Company, I have the honour to enclose, for your Lordship's perusal, a printed paper containing the conditions and basis on which the Company now propose to proceed, under the sanction of Her Majesty's Government.

I have to solicit, on behalf of the Company, an early interview with your Lordship, when a deputation will be happy to lay before your Lordship the plan and details of the Company for colonizing New Zealand, with a view to obtaining, through your Lordship's intervention, a Royal Charter of Incorporation.

A correspondence took place last year between the Association and the members of the Government, the result of which was a communication from Lord Glenelg to the Earl of Durham, containing the conditions on which Her Majesty's Government were prepared to recommend the granting of a charter of incorporation. These conditions having been fully complied with, it is for the fulfilment of the pledge then given that the subscribers and emigrants now apply to your Lordship.

Your Lordship is probably aware that a Bill was introduced into Parliament last session for colonizing New Zealand, and the chief ground upon which Her Majesty's Government did not feel justified in giving their sanction either to a Bill or a Charter, at that period, was the absence of an actual subscribed capital, and the consequent want of protection to those proceeding to the colony as emigrants.

By the re-organization of the Association, pursuant to the conditions laid down by the Government, this objection is now fully met. A large number of highly influential persons, including shipowners, particularly those connected with the whale fisheries of the South Seas, merchants, and others (independently of those Members of both Houses of Parliament who supported the Association on public principle), together with many respectable individuals, who, having sold their property, are fully prepared to emigrate, have already subscribed a large capital, ample for all the purposes of colonization; and all they ask of Her Majesty's Government, is the fulfilment of the pledge contained in the letter from Lord Glenelg to the Earl of Durham, dated the 29th day of December 1837, of which the following is an extract, and to which your Lordship's attention is particularly requested:—

“Colonization, to no small extent, is effected in these islands; the only question, therefore, is between colonization, desultory, without law, and fatal to the natives, and a colonization organized and salutary. Her Majesty's Government are therefore disposed to entertain the proposal of establishing such a colony. They are willing to consent to the incorporation, by a royal charter, of various persons, to whom the settlement and government of the projected colony, for some short term of years, would be confided. The charter would be framed with reference to the precedents of the colonies established in North America by Great Britain, in the sixteenth and seventeenth centuries.”

A protection and sanction which the Committee submit, independently of the pledge of the Government, by the ancient usage of this country, Englishmen who embark their capital and fortunes in endeavouring to extend the political and commercial relations of Britain, are fully entitled to expect at the hands of Her Majesty's Government.

It is now, my Lord, more than two years since this question was first brought before the Government, and as two communications have already been made this year to the Colonial Office—the one through Mr. John Wright, the banker, stating the favourable financial condition of the Company; the other through Mr. Hutt, M.P.—requesting an interview, the Committee confidently place some reliance upon your Lordship's consideration, trusting that the suspense and anxiety which a large number of really respectable persons desirous of emigrating have suffered for so long a period, will be an ample apology for pressing the attention of Government to some immediate measure.

A vessel has already been purchased at a considerable expense for the pioneer expedition and the surveying staff, which is still lying in the dock; and it is imperative to the interests of those who have sold their property and embarked their fortunes upon the pledge of the Government last year, that the sanction of Her Majesty's Government to a charter should be immediately obtained, in order that the expedition should forthwith sail.



I take the liberty of reminding your Lordship that the independence of New Zealand, with regard to territory, has been already acknowledged by the British Government; that a large tract of country has been purchased by the Company; and I am quite sure I need not enlarge upon the importance of British capitalists and emigrants possessing themselves, under the protection of the Crown, of the territory of New Zealand, whether with regard to the commerce of our increasing Australian possessions, or the extensive shipping interests of the South Seas, or to the exclusion of American or French adventurers, who there is every reason to believe are already in the field.

Under all these circumstances, the Committee trust your Lordship will at a glance see the impolicy and injustice of Her Majesty's Government delaying for one moment to confirm the sovereignty of these islands to the Crown of Britain, by granting a charter of incorporation, with limited powers of government, which will afford ample protection to emigrants, and security to capitalists, and, while promoting colonization on a sound and systematic basis, will, at the same time, open new markets for our manufactures, provide a naval depôt for our shipping, ample naval stores for our arsenals, and by providing a new field for British labour, capital, and enterprize, will materially add to the dominion, the commerce, and the wealth of Great Britain.

Such, my Lord, is a brief outline of the claims that this Company have to your Lordship's attention—claims that I feel assured your Lordship will feel disposed to give that fair consideration which is due from a Minister of the British Crown to a body of Englishmen embarking their capital, and many the lives and fortunes of themselves and families, in so distant and so perilous an undertaking.

I have, &c.,  
(Signed) **STANDISH MOTTE,**  
Chairman.

*The Most Honourable the Marquis of Normanby,*  
&c. &c. &c.

## No. 5.

From HENRY LABOUCHERE, Esq., to STANDISH MOTTE, Esq.

SIR,

*Downing-street, 11th March 1839.*

No. 5.

I AM directed by the Marquis of Normanby to acknowledge the receipt of your letter of the 4th inst., requesting an interview with his Lordship on the subject of the projected New Zealand Colonization Company.

Henry Labouchere,  
Esq. to Standish  
Motte, Esq.

11th March 1839.

As your letter insists upon the offer made by Lord Glenelg to a body of gentlemen associated together for a similar purpose in the year 1838, and claims as a matter of right the fulfilment of that offer, Lord Normanby thinks it necessary to apprise you distinctly that he cannot acknowledge the existence of any such right on the side of the projected Company, or of any such obligation on the side of Her Majesty's Government. The offer of 1838 was distinctly rejected by those to whom it was made.

They applied to Parliament to obtain the powers which they had failed to procure from the Crown, and the application was unsuccessful. During the interval which has since elapsed, much additional information has been obtained, bearing materially upon the question in debate. Under such circumstances, Lord Normanby would hold himself entirely unfettered by the offer of the last year, even if the benefit of it were now claimed by the persons to whom it was made. This, however, is not the case. The list of the gentlemen with whom you are now acting, differs most essentially from the list which was laid before Lord Glenelg in the year 1838.

If it is distinctly understood, by the gentlemen who are to form the proposed deputation, that Her Majesty's Government is as free to consider and act upon this subject for the public good as though the rejected offer of 1838 had not been made, Lord Normanby will be happy to receive that deputation at this office on Thursday next, the 14th inst., at any time between 12 and 4 o'clock. If, on the other hand, the gentlemen with whom you are associated are to be understood as maintaining that they are in possession of any pledge from Her Majesty's Government from



No. 5.

Henry Labouchere,  
Esq. to Standish  
Motte, Esq.

11th March 1839.

which the Ministers of the Crown cannot now recede, Lord Normanby must beg leave to decline the proposed interview until that preliminary question shall have been brought to a decision.

I have, &amp;c.

*Standish Motte, Esq.*  
&c. &c. &c.

HENRY LABOUCHERE.

No. 6.

From WILLIAM HUTT, Esq., M.P., to the MARQUIS of NORMANBY.

*Committee Room, 3, Southampton-street, Strand,*  
*April 29th, 1839.*

No. 6.

William Hutt, Esq. to  
the Marquis of Nor-  
manby.

29th April 1839.

MY LORD,

ON behalf of the New Zealand Land Company I have the honour to comply with your Lordship's desire, that I should repeat in writing the application made to you this morning by Lord Petre, Mr. Somes, and myself.

Your Lordship has been for some time aware of the intentions of the Company to establish a settlement in New Zealand; and the report which appears in the *Morning Chronicle* to-day of our meeting at Blackwall on Saturday, contains some account of our immediate objects in dispatching the first vessel to New Zealand. Those objects, however, are more fully explained in the copy, which I have the honour to inclose, of the instructions of the Company to their principal agent, Colonel Wakefield.

We are naturally anxious, in the possible, though improbable, case of his being in want of such assistance as might be properly afforded to him by any British authority in the South Seas, that it should not be withheld from him; and the purpose, therefore, with which we waited on your Lordship this morning, was to request that you would be so good as to furnish him with letters to the Governors of New South Wales and Van Diemen's Land, similar to those which Lord Glenelg gave to Colonel Light, the Commander of the exploring vessel sent to South Australia in 1836.

I beg leave to repeat that the vessel is ready for sea, and will sail from London on Wednesday next.

I have, &amp;c.

*The Marquis of Normanby,*  
&c. &c. &c.

WILLIAM HUTT.

(Enclosure.)

Instructions from the NEW ZEALAND LAND COMPANY to COLONEL WAKEFIELD, Principal Agent of the Company.

Enclosure in No. 6.

IN furnishing you with some written instructions for your guidance in the management of the enterprise committed to your charge, we do not imagine that it is possible for us to define the particular means by which the objects of the expedition may be best accomplished. On the contrary, we are fully persuaded that the conduct of the expedition must be regulated by circumstances, of which we shall not obtain any knowledge until long after their occurrence. We believe that if you thoroughly understand the objects of the expedition, we shall most effectually promote its success by leaving the means to be determined by your own judgment, founded on the knowledge which you may acquire on the spot, and directed by the local circumstances which we cannot pretend to anticipate. These instructions are therefore intended to be of a general character. Our purpose is rather to explain the objects of the Company than to specify any means for attaining them. We wish to impose the greatest responsibility on you, whom we have selected to take charge of this expedition because we believe you to possess the requisite qualities of intelligence, activity, self-command, discretion, firmness, and perseverance. Nor do we forget what is due to you when so made answerable for the success of the undertaking. It is only just, in our opinion, that the responsibility which you incur, should be accompanied by the utmost latitude for the exercise of your own judgment as to the means to be employed.

It is with the same view to your responsibility and freedom of action, that we have placed all the servants of the Company under your sole and unqualified direction. We have informed them that they are expected to consider you as the representative of the Company; to attend to your instructions as if these proceeded from the Company itself; and to perform no act, in relation to the affairs of the Company, except with your concurrence or under your direction.

In order to render this necessary control effective, you are authorized to suspend or dismiss any other servant of the Company as you may see fit, and even, if you should think it expedient, without assigning any reason for the act. In such a case, however, you will immediately submit to the Company in writing the fullest account of the grounds of your decision. Whilst we expect that you will justify such a decision to the Company, we wish to guard you against the inconveniences that might arise from your reasons becoming a subject



of discussion and canvass amongst the party under your orders. In case any servant of the Company should voluntarily resign, you are at liberty to supply his place as you may best be able. And we need scarcely point out to you the expediency of your rather allowing, if possible, any servant of the Company, with whom you may be dissatisfied, to resign his situation, than subject him to the pain of being dismissed. It is also desirable that you should make frequent reports to the Company upon the conduct of their servants, whom we have informed that any improvement of their position in the Company's service will depend on your favourable opinion of them.

The objects of the present expedition may be divided into three distinct classes:—1st, the purchase of lands for the Company;—2ndly, the acquisition of general information as to the country;—and, 3rdly, preparations for the formation of settlements under the auspices of the Company.

1. In the pursuit of the first object, you will constantly bear in mind that the profits of the Company must, in a great measure, depend on the judgment which you may exercise in selecting places of future location. As all the world is free to purchase lands in New Zealand upon the same terms as the Company, it should be your especial business to acquire spots which enjoy some peculiar natural advantage; lands, the possession of which would bestow on the Company, or hereafter on those who may purchase from the Company, some valuable superiority over the owners of ordinary lands. Of merely fertile land there exists so great an abundance, that its possession, however useful and valuable, would not be peculiarly advantageous. Mere fertility of soil, therefore, though not to be overlooked, is a far less important consideration than natural facilities of communication and transport. There is probably some one part of the islands better suited than any other to become the centre of their trade, or commercial metropolis, when they shall be more fully inhabited by Englishmen; and there must be many other spots peculiarly eligible for the sites of secondary towns. The shores of safe and commodious harbours, the sheltered embouchures of extensive rivers communicating with a fertile country, the immediate neighbourhood of powerful falls of water which might be expected to become the seats of manufactures,—these are the situations in which it is most to be desired that you should make purchases of land. And especially you should endeavour to make an extensive purchase on the shores of that harbour, which, all things considered, shall appear to offer the greatest facilities as a general trading depôt and port of export and import for all parts of the islands,—as a centre of commerce for collecting and exporting the produce of the islands, and for the reception and distribution of foreign goods. In making this selection you will not forget that Cook's Strait forms part of the shortest route from the Australian Colonies to England, and that the best harbour in that channel must inevitably become the most frequented port of colonized New Zealand. A mere harbour, however, whether there or elsewhere, might be of but little value. There is not in the world, perhaps, a safer or more commodious harbour than Port Hardy in D'Urville's Island; but the smallness of the island renders its harbour of less importance than several others on the shores of Cook's Strait. That harbour in Cook's Strait is the most valuable, which combines with ample security and convenience as a resort for ships, the nearest vicinity to, or the best natural means of communication with, the greatest extent of fertile territory. So far as we are at present informed, Port Nicholson appears superior to any other. As to the relative advantages, however, of the different harbours of Cook's Strait, you will probably be able to obtain useful information from captains of whaling-ships and trading vessels, or from permanent English settlers in Queen Charlotte's Sound or Cloudy Bay; and with this view, as well as for the purpose of comparison on your own observation, we suggest that you should visit one or both of those harbours before you proceed to Port Nicholson. You are at liberty to engage, either at those harbours or elsewhere, the services of any Englishmen or natives, whom you may wish to accompany you in your visits to other harbours.

It is far from being intended that your purchases of land, on behalf of the Company, should be confined to that harbour which you may consider superior to all the others. While you will endeavour to acquire as much land as possible in that spot or neighbourhood, it is also desirable that you should effect purchases in any part of Cook's Strait, which shall appear highly eligible for commercial settlements, or for agricultural purposes, within easy reach of a good harbour. And, in particular, we must express our anxiety that you should obtain land around one good harbour, at least, on each side of Cook's Strait.

It will be necessary for you to touch at Entry Island, the seat of the tribe to which, as we are informed, both sides of Cook's Strait belong, and at the island of Mana, which is the residence of the family of the Company's interpreter, Nayti.

In the conduct of negotiations for the purchase of lands in Cook's Strait, you may meet with difficulties which no longer exist in the more northern parts of the North Island, where the numerous and extensive purchases by servants of the Church Missionary Society, and others, have established a regular system of dealings for land between the natives and Europeans. The chief difficulty with which, as we imagine, you may have to contend, is that of convincing the natives that the expedition under your orders has no object hostile to them. They are necessarily suspicious, in consequence of the ill-treatment which they have often received from Europeans. We recommend that you should, on every occasion, treat them with the most entire frankness, thoroughly explaining to them that you wish to purchase the land, for the purpose of establishing a settlement of Englishmen there, similar to the numerous English settlements on the rivers Thames and Hokianga, and in the Bay of Islands; or rather on a much larger scale, like the English settlements in New South Wales and Van Diemen's Land, with which the natives of Cook's Strait are very well acquainted. And you will abstain from completing any negotiation for a purchase of land, until this, its probable result, shall be thoroughly understood by the native proprietors, and by the tribe at large.

No. 6.

William Hutt, Esq. to  
the Marquis of Nor-  
manby.

29th April 1839.

Enclosure in No. 6.



No. 6.

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Above all, you will be especially careful, that all the owners of any tract of land which you may purchase, shall be approving parties to the bargain, and that each of them receives his due share of the purchase-money. You will find many of the inhabitants of Cook's Strait, who have visited the Thames and the Bay of Islands, well acquainted with the nature of the exchanges for land which have taken place in those districts, between native owners of land and Englishmen of various classes; and it is not improbable that they may inquire, whether, as you represent a Company, the land which you may purchase will belong to a public body, and be inalienable like that which has become the property of the Church Missionary Society, or will be the property of private persons liable to frequent change of hands, like those lands which have been purchased by individual missionaries and other settlers. Whether or not they ask this question, you will fully explain to them that the Company intends to dispose of its property to individual settlers expected from England, and that you purchase, if at all, on the same terms as have formed the conditions of private bargains for land in other parts of the islands.

But in one respect, you will not fail to establish a very important difference between the purchases of the Company and those which have hitherto been made by every class of buyers. Wilderness land, it is true, is worth nothing to its native owners, or worth nothing more than the trifle they can obtain for it. We are not, therefore, to make much account of the utter inadequacy of the purchase-money, according to English notions of the value of land. The land is really of no value, and can become valuable only by means of a great outlay of capital on emigration and settlement. But at the same time it may be doubted, whether the native owners have ever been entirely aware of the consequences that would result from such cessions, as have already been made to a great extent, of the whole of the lands of a tribe. Justice demands, not merely that these consequences should be as far as possible explained to them, but that the superior intelligence of the buyers should also be exerted to guard them against the evils which, after all, they may not be capable of anticipating. The danger to which they are exposed, and which they cannot well foresee, is that of finding themselves entirely without landed property, and therefore without consideration, in the midst of a society where, through immigration and settlement, land has become a valuable property. Absolutely they would suffer little or nothing from having parted with land which they do not use and cannot exchange; but relatively they would suffer a great deal, inasmuch as their social position would be very inferior to that of the race who had settled amongst them, and given value to their now worthless territory. If the advantage of the natives alone were consulted, it would be better, perhaps, that they should remain for ever the savages that they are. This consideration appears never to have occurred to any of those who have hitherto purchased lands from the natives of New Zealand. It was first suggested by the New Zealand Association of 1837; and it has great weight with the present company. In accordance with a plan which the Association of 1837 was desirous that a legislative enactment should extend to every purchase of land from the natives, as well past as future, you will take care to mention in every *booka-booka*, or contract for land, that a proportion of the territory ceded, equal to one-tenth of the whole, will be reserved by the Company, and held in trust by them for the future benefit of the chief families of the tribe. With the assistance of Nayti, who is perfectly aware of the value of land in England, and of such of the more intelligent natives as have visited the neighbouring colonies, you will readily explain, that after English emigration and settlement, a tenth of the land will be far more valuable than the whole was before. And you must endeavour to point out, as is the fact, that the intention of the Company is not to make reserves for the native owners in large blocks, as has been the common practice as to Indian reserves in North America, whereby settlement is impeded, and the savages are encouraged to continue savage, living apart from the civilized community—but in the same way, in the same allotments, and to the same effect, as if the reserved lands had been purchased from the Company on behalf of the natives.

A perfect example of this mode of proceeding will occur soon after your departure from England. As respects a territory purchased from the natives by Lieut. M'Donnell, the late British Resident at Hokianga (who is well known to some of the chiefs of the tribe occupying both sides of Cook's Strait), and from him purchased by the Company, we intend to sell in England, to persons intending to settle in New Zealand and others, a certain number of orders for equal quantities of land (say 100 acres each), which orders will entitle each holder of land or his agent to select, according to a priority of choice to be determined by lot, from the whole territory laid open for settlement, the quantity of land named in the order, including a certain portion of the site of the first town. And one-tenth of these land-orders will be reserved by the Company, for the chief families of the tribe by whom the land was originally sold, in the same way precisely as if the lots had been purchased on behalf of the natives. The priority of choice for the native allotments being determined by lot, as in the case of actual purchasers, the selection will be made by an officer of the Company, expressly charged with that duty, and made publicly responsible for its performance. Wherever a settlement is formed, therefore, the chief native families of the tribe will have every motive for embracing a civilized mode of life. Instead of a barren possession with which they have parted, they will have property in land intermixed with the property of civilized and industrious settlers, and made really valuable by that circumstance. And they will thus possess the means, and an essential means, of preserving in the midst of a civilized community, the same degree of relative consideration and superiority as they now enjoy in their own tribe. This mode of proceeding has been fully explained to Nayti. He perfectly understands that, if the Company should purchase lands, and establish a settlement in the island which belongs to his family, his father and brothers, and himself, would share equally with all purchasers of land from the Company, to



the amount of a tenth without purchase, including a tenth of the site of a town. He is quite alive to the advantages of possessing land where land has a high value, and will have no difficulty, we believe, in explaining them to his people. You are aware of the distinctions of rank which obtain amongst them, and how much he prides himself on being a *rangatira* or gentleman. This feeling must be cultivated, if the tribes are ever to be civilized; and we know not of any method so likely to be effectual for the purpose, as that which the Company intends to adopt, in reserving for the *rangatiras* intermixed portions of the lands on which settlements shall be formed.

The intended reserves of land are regarded as far more important to the natives than anything which you will have to pay in the shape of purchase-money. At the same time we are desirous that the purchase-money should be less inadequate, according to English notions of the value of land, than has been generally the case in purchases of territory from the New Zealanders. Some of the finest tracts of land, we are assured, have been obtained by missionary catechists and others, who really possessed nothing, or next to nothing. In case land should be offered to you for such mere trifles, as a few blankets or hatchets, which have heretofore been given for considerable tracts, you will not accept the offer without adding to the goods required, such a quantity as may be of real service to all the owners of the land. It is not intended that you should set an example of heedless profusion in this respect; but the Company are desirous, that in all their transactions with the natives the latter should derive some immediate and obvious benefit by the intercourse.

We have reason to believe, that you may rely on the good faith of the natives, in any transactions for the purchase of land. The known instances are numerous, in which contracts of this sort have been strictly observed, and very few in which they have been questioned. It appears, however, that the natives expect the land to be used by its English purchasers. The tribe from which some land was purchased in 1826, on the Hokianga river by a London Company, (which dispatched an expedition under the sanction of Government, similar to that which you will command,) sent a message to the Directors of the Company to the effect, that unless they took actual possession of the land which they had purchased, it would be resumed by its native owners. The object of the natives is to attract English settlers, by means of whose capital they may obtain goods in exchange for their labour and the natural productions of the country. We, therefore, think it desirable that, whenever you can do so without much inconvenience, you should leave some one or more persons in possession of any very eligible tract you may have purchased. This, by assuring the natives of the intention of the Company to form a settlement amongst them will tend to the security of the property acquired. With this view, we authorize you to engage at New Zealand, in addition to those who will accompany you from England for that purpose, any other persons equally familiar with the native customs, who may consent to be left alone in possession of purchased tracts. We doubt not that this authority will be exercised with becoming moderation.

In whatever purchases you may make, it is most expedient that the boundaries of the land should be most clearly set forth, not merely in words, but in a plan attached to the written contract. A neglect of this very simple precaution has led, in some cases, without any wrong intention perhaps on either side, to disputes between English sellers and native buyers in various parts of the country.

It appears, that Englishmen who buy land in New Zealand consider it advantageous that their own signatures, and those of the native sellers on the *booka-booka*, should be attested by a member of one of the religious missions. Mr. Williams, the chairman of the Church Mission, drew up, and signed as a witness, a contract for land purchased at Tamaka, in the Frith of the Thames, by Mr. Fairburn, a Church Missionary Catechist; and you will observe, that Lieut. M'Donnell's contracts for land at Hokianga, are attested by members of the Wesleyan Mission. The natives probably attach some peculiar importance to the attestation of a missionary, in consequence of the peculiar respect in which they hold that class of settlers. If you should find this to be the case, you will, of course, endeavour to obtain, whenever the opportunity may occur, such higher degree of authenticity for the contracts into which you may enter on behalf of the Company.

2. Our instructions, as to the acquisition of general information respecting the country, may be briefly given. It is impossible that you should furnish the Company with too much information, or with information of too varied a character. We shall be anxious to know all that you can possibly learn upon every subject of inquiry. The subjects of inquiry comprise everything about which it is possible to inquire. No matter should be deemed unworthy of examination, —no particulars, however minute, will be unacceptable. We suppose that you will keep a daily journal of observations, and that in this journal you will, as far as possible, mention whatever may attract your notice. Those points even which may appear to you on the spot as of the least importance, will not be thought insignificant by us. Besides contributing as largely as your time will permit to our stock of knowledge respecting New Zealand, you will take care that the scientific gentlemen, attached to the expedition, have every possible facility of exploring the country at the places at which you may touch or sojourn. They are instructed to make separate reports to the Company, each in his own department of science; and these reports will pass through your hands, in order that you may be satisfied of their copiousness and accuracy. This rule applies to drawings made by the draftsmen of the Company. And we must now mention another rule, which you will not fail to impress on all your subordinates; namely, the propriety of carefully avoiding anything like exaggeration in describing the more favourable features of the country. Let the bad be stated as plainly and as fully as the good; so that the Company, learning the whole truth as well as nothing but the truth, may run no risk of misleading others.

No. 6.

William Hutt, Esq. to  
the Marquis of Nor-  
manby.

29th April 1839.

Enclosure in No. 6.



No. 6.

William Hutt, Esq. to  
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Enclosure in No. 6.

For fear of inducing you to attach undue importance to particular branches of inquiry, to the neglect of others, we are almost unwilling to specify those which appear to us to deserve the greatest attention. Yet we must remark, that, in the allotment of the time devoted to general observation, the largest portion should be given to those spots where you may make purchases on behalf of the Company. This is due to the shareholders, by means of whose capital the enterprise is undertaken. But we by no means wish to confine the reports to such spots. Let the fullest inquiries be made wherever it is practicable; and assure all the gentlemen attached to the expedition, not only that the information supplied by them will be conveyed to the public of this country, but also that each of them will receive public credit for his share of the contribution. Nor is it as respects locality, merely, that the interests of the Company should be first considered. The subjects upon which information will be most acceptable, are those which relate to the eligibility of places for settlements; such as the qualities of a harbour, its facilities of communication, the form and character of the neighbouring country, and the quality of the soil and of any rivers that may flow into it, the natural productions of the land, more especially those which would be fit for exportation, and the numbers and character of the native tribe inhabiting the spot; all those particulars, in short, which you may suppose would prove most interesting to persons who contemplated settling in New Zealand. General information relating to navigation, geography, geology, botany, zoology, and the traditions, customs, and character of the natives, will be highly appreciated, and will be communicated from time to time to the scientific societies in England; but this must be considered an object secondary in importance to those inquiries which more immediately concern the Company and its colonizing operations.

You are aware that numerous vessels resort to New Zealand on their way to England, and that there is constant communication between the islands and the neighbouring colonies of New South Wales and Van Diemen's Land. You will therefore have great facilities for communicating with the Company. We expect to hear from you by every possible opportunity, and to receive frequent reports from the scientific gentlemen. It is indeed expedient that all the journals should be written in triplicate, and that two copies should be forwarded to us by different vessels. This is a matter of essential importance, and may be easily provided for by forecast and attention; so that whenever an opportunity of sending occurs, the copies of the journals, down to that time, may be ready to send. We are assured that the volunteers in the expedition will cheerfully assist in copying.

3. Considering the excellent sailing qualities of the "Tory," and that you are amply supplied with provisions and water, we trust that you may reach Cook's Strait, without touching anywhere, by the end of August. As soon as you have completed your business there, which we are in hopes may not occupy you more than two months, you will proceed to Kaipara, and thoroughly inspect that harbour and district. You will also take the best means in your power of ascertaining whether there is, to the northward of Kaipara, a spot more suitable than that port to become the seat of the commercial capital of the North Island; and if you should discover such a spot, you will endeavour to make an extensive purchase there.

At Kaipara you will exhibit to the natives the original contracts of Lieutenant M'Donnell, and will claim, on behalf of the Company, the lands therein named. You will also inform the natives, that Lieutenant M'Donnell intends to proceed to New Zealand ere long; you will deliver to the chiefs the letter, whereby he informs them of his having transferred his lands there to the Company; and you will take whatever steps you may think most expedient, to obtain possession of this tract in the name of the Company.

Supposing you to have selected from any purchases that you may make in Cook's Strait, or the neighbourhood of Kaipara, or in the district of the Company's lands at Kaipara, that spot which you shall deem the fittest for a first settlement,—that spot which shall present the most satisfactory combination of facility of access, security for shipping, fertile soil, water-communication with districts abounding in flax and timber, and falls of water for the purpose of mills,—and where the native inhabitants shall evince the greatest desire to receive English settlers, and appear most anxious to obtain employment for wages;—there you will make all such preparations for the arrival of a body of settlers, as the means at your disposal will allow. Amongst these it occurs to us that the natives should be employed at liberal wages, in felling the best kinds of timber, taking the logs to the place which you may have marked out for the site of a town, and also in collecting and preparing flax and spars as a return freight for vessels which may convey settlers to the place. You should also make the natives thoroughly aware of the nature and extent of the intended settlement, so that they may not be surprised at the subsequent arrival of a number of large ships. And at this spot, when you quit it, you will of course leave such persons as you may be able to spare, and shall be willing to remain, for the purpose of assuring the natives of your return, and of pursuing the labours of preparation. On quitting this spot, you will proceed directly to Port Hardy, in D'Urville's Island, where you will remain until some of the Company's vessels shall arrive from England. By the first and subsequent vessels you will receive further instructions. It is of essential consequence that you should, if possible, reach Port Hardy by the 10th of January next, or, if that should not be possible, that you find means of transmitting to the Company's vessels, that will be directed to touch there by that time, a full account of the spot on which you may have determined as the site of the first settlement.

In addition to the three subjects on which we have already expressed our views, there are several points to which we must direct your attention.

You will consider any act of aggression or affront from any of the Company's servants towards any native of New Zealand, as a sufficient reason for immediate dismissal from the Company's service, and in the most public manner.



Drunkenness, though in this case the same publicity may not be necessary, should be invariably visited with a similar penalty.

You will take care that the servants of the Company show every mark of respect to the missionaries with whom you may meet, and also in conversation with the natives respecting them. This is due to their calling; is deserved by the sacrifices they have made as the pioneers of civilization; and will moreover be found of service in your intercourse with the natives, who, in the northern part of the North Island at least, regard missionary settlers with the greatest respect.

Except in cases of unavoidable necessity, the servants of the Company will perform no work on Sunday; and you will always assemble them for public worship on that day. You will find that the natives who have had much intercourse with missionaries, draw a marked distinction between those settlers who work on Sundays, and those who do not, regarding the former as inferior people, and the latter as rangatiras or gentlemen.

You are aware of the objections of the officers of the Church Missionary Society in England to any legislation for the purpose of the systematic and well-regulated colonization of New Zealand. We are assured that the members of the different missions established in New Zealand, whether Churchmen, Catholics, or Wesleyans, by no means share in these objections, but are, on the contrary, most desirous that a British authority should be established, as well for the protection of the natives from the aggressions of lawless Englishmen, as for the general security of person and property throughout the settlements already formed, and the islands in general. Upon this point, however, and with respect to the feelings of the native chiefs on the subject, you will endeavour to obtain, and will transmit to us from time to time, the fullest and most accurate information.

We shall be particularly anxious about the fate of Nayti. He is no longer a New Zealander in manners, habits, or tastes, but has acquired those of a well-bred Englishman. This result of his sojourn in England has occurred, we believe, chiefly by means of the peculiar treatment which he has received in this country. Though a complete savage when he arrived, he was at once placed on a footing of equality with the family who brought him to England, and has never, by any body, been treated as an inferior being. You are acquainted with his sterling good qualities, and aware of the respect in which he is held by numbers. He is very proud of having been invariably treated with respect, and of the estimation which he has obtained in England. By cultivating this sentiment, by admitting him to all the privileges of an officer of the Company, by constantly availing yourself of his services as an interpreter, and consulting him as to the modes of establishing friendly relations with his countrymen, and by exhibiting him to them as your coadjutor and friend, you will not only, we are assured, prevent him from wishing to return to the usages of savage life, but you will hold up a most useful example to the young men of superior families in his own tribe, and others. The great obstacle to the civilization of a barbarous people is the difficulty of providing for the continued relative superiority of their chief families. If these can be made persons of consequence in the settlements established by a civilized race, they will be able to protect and improve the lower orders of their countrymen. This object, we believe, may be accomplished by systematic pains-taking. It is an object to which the Company attach the highest importance; and one which, we trust, may be promoted, by holding up Nayti to his countrymen as conclusive evidence of their capacity for performing useful parts, and occupying respectable positions in a community of British emigrants. And you will not fail to seize any opportunity that may occur, of inducing other natives of the chief families to follow Nayti's example, by qualifying themselves for superior employments, and for enjoying the really valuable property which all such persons may hope to acquire, if the Company's plan, with respect to reserves of land for the natives, should be generally established by means of a legislative measure.

In case any calamity should befall yourself, the command of the expedition will devolve upon such person as you may have previously selected for that purpose, who will attend to these instructions as if they had been addressed to him.

No. 6.

William Hutt, Esq. to  
the Marquis of Nor-  
manby.

29th April 1839.

Enclosure in No. 6.

No. 7.

From HENRY LABOUCHERE, Esq., to WILLIAM HUTT, Esq., M.P.

SIR,

Downing Street, 1st May 1839.

No. 7.

I AM directed by the Marquis of Normanby to acknowledge the receipt of your letter of the 29th ultimo.

Henry Labouchere,  
Esq. to William Hutt,  
Esq., M.P.

1st May 1839.

In reply I am directed to state, that until the deputation, of which you were a member, waited on Lord Normanby, on that day, his Lordship was entirely ignorant of the course which the Company had adopted, or of the objects which it now appears that they have in view.

Lord Normanby now, for the first time, learns that a body of Her Majesty's subjects are about to proceed to New Zealand to purchase large tracts of land there, and to establish a system of Government independent of the authority of the British Crown. It is impossible that his Lordship should do any act which could be construed into a direct or indirect sanction of such a proceeding.

Abstaining from the expression of any opinion upon a measure so imperfectly

D 2



No. 7.

Henry Labouchere,  
Esq. to William Hutt,  
Esq., M.P.

1st May 1839.

developed in the papers which accompany your letter, Lord Normanby thinks it necessary that the parties concerned should be distinctly apprised, that Her Majesty's Government cannot recognize the authority of the agents whom the Company may employ; and that if, as is probable, the Queen should be advised to take measures, without delay, to obtain cession in sovereignty to the British Crown of any parts of New Zealand, which are or shall be occupied by Her Majesty's subjects, officers, selected by the Queen, will be appointed to administer the executive government within any such territory. Lord Normanby wishes it to be further understood, that no pledge can be given for the future recognition by Her Majesty of any proprietary titles to land within New Zealand, which the Company or any other persons may obtain by grant or by purchase from the natives. On the contrary, with a view to the protection of the interests of the aborigines, as well as to the future prosperity of any colony which may be established in New Zealand, it is probable that application to Parliament may hereafter become necessary to provide for the investment in the Crown of any proprietary rights which may be thus acquired by private parties, with such equitable compensations to them as under all the circumstances of the case may appear to be expedient. Under these circumstances Lord Normanby must decline to furnish the Company with the introductory letters for which they apply.

I am, &amp;c.,

HENRY LABOUCHERE.

William Hutt, Esq., M.P.,  
&c. &c. &c.

No. 8.

From the Earl of DURHAM to the Marquis of NORMANBY.

*New Zealand Land Company's Office,  
1, Adam Street, Adelphi,  
22nd May 1839.*

No. 8.

The Earl of Durham  
to the Marquis of  
Normanby.

22nd May 1839.

MY LORD,

IN pursuance of the Resolution (of which a copy is enclosed) of the Directors of the New Zealand Land Company, I have the honour to address your Lordship on behalf of that body.

The subject of the Resolution has been so often brought before the Department over which your Lordship presides, that I need do no more on the present occasion than state certain facts which have occurred since the last communication was made to you.

The Prospectus, of which I have the honour to enclose a copy, describes the objects of the New Zealand Land Company. This Company has been formed by an union of three societies, whose interests have now become one. The New Zealand Company of 1825, which, acting with the sanction and encouragement of the Government, laid out a considerable capital in acquiring lands in New Zealand. The New Zealand Association, which was formed in 1837, and whose proceedings are fully recorded in your Lordship's office. And a Company, recently formed by members of that Association, which has purchased large tracts of land in the Islands, and has despatched an expedition thither for the purpose of making preparations for a settlement.

I have further to inform your Lordship, that in immediate dependence on the present Company a society has been formed, consisting, exclusively, of heads of families, and others, who intend to settle in New Zealand. This body comprises persons of considerable property, as well as members of some of the oldest and most respectable families in the kingdom. Their objects are briefly stated in the advertisement, of which a copy is enclosed. And I may add, that communications made to the Company from various parts of England and Scotland, satisfy us that preparations are now making for a very extensive emigration of capitalists and others to New Zealand, independently of the Company.

In these circumstances, the gentlemen whom I represent trust that Her Majesty's Government will be convinced of the expediency, or rather necessity, of affording to British settlers, in New Zealand, better securities for law and government than have hitherto been established amongst Her Majesty's subjects there. We are satisfied that the means exist of providing for all the expenses of regular government, without any cost to the mother country.

I have therefore to request that your Lordship will be so good as to appoint a



time when we may wait upon you for the purpose of more fully explaining (if you should wish for further explanation) the urgent necessity of some kind of legislation in this matter, and of ascertaining from you the views with respect to it, which are now entertained by Her Majesty's Government.

No. 8.

The Earl of Durham  
to the Marquis of  
Normanby.

22nd May 1839.

*The Marquis of Normanby,*  
&c. &c. &c.

I have, &c.,  
(Signed) DURHAM.

(Copy.)

(Enclosure 1 in No. 8.)

At a Meeting of the DIRECTORS of the NEW ZEALAND LAND COMPANY, held  
18th May 1839.

Resolved:—

That the establishment of law and government is indispensable for the security of persons and property, within all British settlements in New Zealand; that it is desirable to urge upon Her Majesty's Government the necessity of such establishment; and that the Earl of Durham, as Governor of this Company, be requested to represent the same to the Secretary of State for the Colonies, and to solicit an interview with his Lordship on the subject, at which all the Directors be summoned to attend.

Enclosure 1 in No. 8.

(Enclosure 2 in No. 8.)

## NEW ZEALAND LAND COMPANY.

Capital, £400,000, in 4000 Shares of £100 each. Deposit, £10 per Share.

Enclosure 2 in No. 8.

*Governor.*—The Earl of Durham.

*Deputy-Governor.*—Joseph Somes, Esq.

*Directors.*—Lord Petre; John William Buckle, Esq.; Russell Ellice, Esq.; Ralph Fenwick, Esq.; James Brodie Gordon, Esq.; William Hutt, Esq. M.P.; George Lyall, Esq.; Stewart Marjoribanks, Esq.; George Palmer, Esq. M.P.; John Pirie, Esq. Alderman; Sir George Sinclair, Bart. M.P.; John Abel Smith, Esq. M.P.; William Thompson, Esq., Alderman, M.P.; Colonel Torrens; Sir Henry Webb, Bart.; Arthur Willis, Esq.; George Frederick Young, Esq.

*Bankers.*—Messrs. Smith, Payne, and Smith; and Messrs. Wright and Co.

*Standing Counsel.*—John Buckle, Esq.

*Solicitors.*—Messrs. Few, Hamilton, and Few.

*Secretary.*—John Ward, Esq.

*Office,* No. 1, Adam Street, Adelphi.

This Company has been formed for the purpose of employing capital in the purchase and resale of lands in New Zealand, and the promotion of emigration to that country.

A description of these islands, as a field for British colonization, has been rendered unnecessary by the labours of the New Zealand Association of 1837, who collected and disseminated very ample information on the subject (see page 3). The sole aim of that Society was to induce the Legislature to apply to New Zealand the peculiar system of colonization which has proved so eminently successful in South Australia, and to make provision for guarding the native inhabitants from the evils to which they have hitherto been exposed by their intercourse with Europeans of every class. Her Majesty's Government, however, objected to all legislation for these ends, except on one condition, to which the society could not assent. The proposed condition was, that the society, which had excluded from its objects all speculation for private gain, should become a joint-stock company, and engage in undertakings with a view to profit. This condition was declined, as being at variance with the declared character of that society; and the result has been the formation of the present company, in a form consistent with the condition thus required by Her Majesty's Government.

The purchase and improvement of waste lands in New Zealand has been already carried on to a great extent, and with much advantage, by missionaries and others, who have settled in the country, as well as by persons residing in the adjacent Australian Colonies; and such an operation upon an enlarged scale is the proposed object of the New Zealand Land Company.

The attention and business of the company will be confined to the purchase of tracts of land,—the promotion of emigration to those tracts directly from the United Kingdom,—the laying out of settlements and towns in the most favourable situations,—and the gradual re-sale of such lands according to the value bestowed upon them by emigration and settlement. It is also proposed that, to facilitate the transmission of capital between England and New Zealand, the company shall act as agents, for that purpose only.

Such an undertaking affords peculiar advantages to the employers of a large combined capital, and is further suitable to a company, inasmuch as it can neither impede individual enterprise, nor is liable to the competition of individuals, and is capable of being managed at little expense for agency, and upon a system of fixed routine.

Very extensive tracts of most fertile land in situations highly favourable both for agricultural and commercial settlements, have been already purchased and secured for the purposes



No. 8.  
The Earl of Durham  
to the Marquis of  
Normanby.

22nd May 1839.

Enclosure 2 in No. 8.

of this company, and an expedition has also been fitted out and dispatched for surveying the coasts of New Zealand, making purchases of lands in the most eligible spots, and preparing for the arrival of a large body of settlers, whom it is proposed to establish on the company's lands during the present year.

These important purchases, and the fitting-out of the preliminary expedition (including the purchase and equipment of a fine vessel of 400 tons), have been effected at a considerable outlay, by parties to whom 600 paid-up shares have consequently been assigned for a transfer of their interests.

Upon the remaining 3400 shares, a call of £10 per share (in addition to the deposit), will be made at the discretion of the directors, with not less than one month's notice; and all further calls will be made at intervals of not less than three months between each call, and of which one month's notice will be given; and no call, at any one time, will exceed £10 per share.

The directors are to have the entire management and control of the funds, formation, proceedings, and affairs of the company, and are empowered to enter into any arrangements whatever which they may consider conducive to the interests of this undertaking,—to prepare a deed of settlement for the management of the company, and to take any steps that may be thought proper, relative to an Act of Parliament or a Charter in aid of their plans, application for which will be made with the least possible delay,—and generally to adopt such measures and proceedings with reference to the grants, and disposal of shares, or otherwise, as they shall consider expedient.

The shares in the first instance will be issued in scrip receipts, upon which will be indorsed the principal laws and regulations by which the company is to be governed until a deed of settlement shall have been entered into, or an Act of Parliament have been obtained.

Further information on every point connected with the company may be obtained from the secretary, at the office, where applications for shares may be made in the following form.

May 2, 1839.

#### THE NEW ZEALAND LAND COMPANY.

##### Form of Application for Shares.

SIR,

I request to have Shares in this undertaking, hereby engaging to take such Shares, or any proportion thereof, as may be appropriated to me upon the terms specified or referred to in the Prospectus dated the 2nd day of May, 1839.

I am, Sir,

Your obedient servant,

(Extract.)

"The physical circumstances of these islands—their relative position, their soil, climate, harbours, rivers, and valuable natural productions—all invite Englishmen to settle there. And it will not be overlooked by those for whom the subject of civilizing the natives possesses more interest than that of colonizing their waste lands, that the advantages to be derived by the aborigines from intercourse and association with legalized and orderly British settlements, must in a great measure depend on the prosperity of the British settlers. Now we believe of New Zealand, quoting from a former statement of the objects of this Society, that, 'no part of the world presents, either a more eligible field for the exertion of British enterprise, or a more promising career of usefulness and satisfaction to those who have to labour in the cause of human improvement.'

"Various particulars concerning the natural circumstances of New Zealand, will be found collected in subsequent pages. It must suffice to say here:—

"1. That the New Zealand group consists mainly of two large islands, nearly adjoining, and extending in their whole length about eight hundred miles, with an average breadth of about one hundred miles; their position lengthwise being between the 48th and 34th degrees of south latitude, and resembling with respect to temperature (after an allowance for the lower degree of heat in the southern hemisphere) that of the land between the south of Portugal and the north of France,—pervading, we may say, but without exceeding, the most favoured part of the temperate region: and that numerous witnesses of ample experience, concur in describing the extremes of cold in winter and heat in summer as being within peculiarly narrow limits; which is to describe the climate as one of the most equable in the world.

"2 That the two large islands are intersected in the greater part of their length by a chain of mountains perpetually covered with snow, and higher, it is supposed, than the European Alps; from which it would be inferred, as is really the case, that the country abounds in streams and rivers always flowing: that droughts, such as occur in New South Wales, have never been known, but that, on the contrary, rain falls plentifully in every due season, though never to an inconvenient degree.

"3. That in the number, security, and convenient distribution of their harbours, these islands are not only unsurpassed, but that they appear to excel every other country of similar extent.

"4. That, as might have been expected from the Andes-like chain which forms, as it were, the backbone of this country, indications of varied mineral wealth have been observed, and that no doubt remains of the existence of coal and iron in great abundance: that the whole country, excepting the regions of perpetual snow, is covered with one or other of the four following productions; viz., first, grass, of which there are extensive ranges on the east side of the south island, at least; secondly, the *phormium tenax*, or New Zealand flax, which appears



to grow universally in low situations, and which, such is the strength and fineness of its fibre, requires only care in gathering and preparation, to rival, if not supersede European flax in the markets of Europe; thirdly, a plant, called fern, which affords a wholesome food for cattle, and now supports great numbers of wild swine in both islands; and fourthly, a greater variety of finer trees—timber of a finer quality, and adapted to a greater number of different purposes, including all that relates to ship-building—than is produced in the forests, it may be safely said, of any other part of the world; which last production finds a ready and profitable market, not merely with the British Admiralty, who now regularly despatch vessels to procure spars in New Zealand, but also in Van Diemen's Land, New South Wales, various ports on the west coast of South America, Brazil, and British India.

"5. That in whatever part of either island they have been planted, European vegetables, fruits, grasses, and many sorts of grain, flourish remarkably, but not more than the different animals which have hitherto been imported, such as rabbits, goats, swine, sheep, cattle, and horses.

"6. That the rivers and lakes abound with edible fish in great variety and of excellent quality; and that the coasts are more frequented than perhaps any other habitable country at present, by seals and whales.

"7. That New Zealand lies in the heart of the southern whale fisheries; and that so serviceable are these islands to that now extensive and rapidly growing branch of industry, as a place for refitting and obtaining provisions, and also for hiring native hands as sailors and whalers, that, what with the foreign demand for New Zealand potatoes, wheat, flax, and timber, not less than the great number of four hundred vessels are supposed to lie at anchor there in the course of a twelvemonth.

"8. That Cook's Strait, between the two islands, forms part of the direct track of vessels homeward-bound from the Australian colonies; that many such vessels go through Cook's Strait, while the others at present pass New Zealand at either its southern or northern extremity, but that all would prefer the midway of Cook's Strait, if that channel were properly surveyed, lighted, and furnished with pilots; and that, consequently, settlements in Cook's Strait,—at Port Hardy in D'Urville's Island, Queen Charlotte's Sound, Cloudy Bay, and Port Nicholson,—would obtain stock-cattle, and other supplies from New South Wales, with peculiar facility and cheapness, since homeward-bound vessels would naturally load in part or sometimes entirely with stock-cattle for New Zealand (and especially on deck in favourable weather which prevails during nine months of the year), discharging that cargo at New Zealand, and reloading there with water and provisions for the homeward voyage, as well as with a New Zealand cargo for Europe, of fish-oil, flax, timber, and other productions of the country. But this is only a sample of the benefits which would accrue to British settlements in New Zealand, from having at the very outset of their career, several kinds of commodities suitable to distant markets, and from the peculiarly favourable position of that country with respect to trade. For,

"9. That by the operation of Lord Howick's regulations and the South Australian Act, the colonization of Australia is most rapidly advancing, and yet, so great are the profits of wool-growing there, that capital is drawn from agricultural to pastoral pursuits, and to such an extent, that the settlements do not produce grain for their own consumption, (New South Wales being in part supplied with flour from New England in North America,) and that, consequently, agricultural productions, for which New Zealand is more peculiarly adapted, (and especially potatoes and grain, which are already exported from New Zealand to Australia,) would find ready markets in New South Wales and South Australia, being exchanged there, in all probability, for British manufactured goods which the Australian merchants had obtained by the sale of their wool in London and Liverpool.

"10, and lastly. That the relative position of New Zealand, in the midst of the now greatest sea-fisheries within easy distance of thousands of inhabited islands, including, besides Australia and Van Diemen's Land, the great Polynesian and rich Indian Archipelagoes,—and, further, numerous and excellent harbours, and the natural productions of the country, which supply almost inexhaustible materials for the building and fitting of ships,—point out these islands as the natural seat of a maritime population, and the natural centre of a vast maritime trade, which last would supply in its maturity, as in its progress it had engendered, the wants of millions at present strangers to the civilizing influence of commerce."—From the British Colonization of New Zealand, pp. 43—48, published by J. W. Parker, West Strand, by direction of the following

*Committee.*—The Honourable Francis Baring, M.P., (*Chairman*); Right Hon. the Earl of Durham; Right Hon. Lord Petre; Hon. W. B. Baring, M.P.; Walter F. Campbell, Esq., M.P.; Charles Enderby, Esq.; Robert Ferguson, Esq., M.P.; the Rev. Samuel Hinds, D.D.; Benjamin Hawes, Esq., M.P.; Philip Howard, Esq., M.P.; William Hutt, Esq., M.P.; Thomas Mackenzie, Esq., M.P.; Sir W. Molesworth, Bart., M.P.; Sir George Sinclair, Bart., M.P.; Captain Sir William Symonds, R.N.; Henry George Ward, Esq., M.P.; W. Wolryche Whitmore, Esq.

No. 8.

The Earl of Durham  
to the Marquis of  
Normanby.

22nd May 1839.

Enclosure 2 in No. 8.



No. 8.

(Enclosure 3 in No. 8.)

The Earl of Durham  
to the Marquis of  
Normanby.

22nd May 1839.

Enclosure 3 in No. 8.

## FIRST COLONY OF NEW ZEALAND.

*Committee, with Power to add to their Number.*—George Samuel Evans, D.C.L., (*Chairman*);  
Hon. Henry Petre; Captain Daniell; Dudley Sinclair, Esq.; Francis  
Molesworth, Esq.; E. B. Hopper, Esq.

UNDER the above designation a Society has been formed, in connexion with the New Zealand Land Company, and consisting exclusively of heads of families and others, intending to settle permanently in New Zealand, on lands purchased from the Company.

The object of this Society is to promote co-operation in the numerous measures of preparation requisite for establishing a prosperous settlement.

The Society already numbers a considerable body of gentlemen, who have determined to emigrate with their families and property. Others, who may entertain similar views, are invited to join them. Qualification of a member of the society, the purchase of one hundred acres of land: of a member of the committee, five hundred acres; including, in both cases, part of the first town. The greater part of the purchase money to be expended by the Company on the emigration of the purchasers, their families, and servants. Members admitted by ballot only.

The Colony will depart in a body during August next, so as to reach their destination about Midsummer (in the southern hemisphere), when the site of the first town will have been determined and prepared for their reception, by a preliminary expedition now on its way to New Zealand.

The Committee meets daily at the offices of the New Zealand Land Company, No. 1, Adam Street, Adelphi, where further information may be obtained, on application (if by letter, post paid) to the Chairman of the Society.

May 20, 1839.

No. 9.

From the MARQUIS of NORMANBY to the EARL OF DURHAM.

No. 9.

Marquis of Normanby  
to the Earl of Durham.  
28th May 1839.

MY LORD,

Downing Street, 28th May 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of the 22nd inst., and to acquaint you in reply, that I shall be happy to receive your Lordship and the other gentlemen on whose behalf you write in connection with New Zealand, on Saturday next, the 1st of June, at 2 o'clock; but I must at the same time beg that it may be distinctly understood that I may not be supposed to express any sanction of the objects for which this Association has been instituted.

I am, &amp;c.,

The Earl of Durham,  
&c. &c. &c.

NORMANBY.

No. 10.

From JAMES STEPHEN, Esq. to A. Y. SPEARMAN, Esq.

No. 10.

James Stephen, Esq.  
to A. Y. Spearman,  
Esq.

13th June 1839.

SIR,

Downing Street, 13th June 1839.

I AM directed by the Marquis of Normanby to request that you will lay before the Lords Commissioners of the Treasury the enclosed copies of a correspondence which has passed between this Department and the Foreign-office, relative to the establishment of some competent British authority within the islands of New Zealand.

The letter which was addressed by Lord Glenelg's direction to Mr. Backhouse, on the 12th of December last, will inform their Lordships of the general state of society in those islands; and, since that date, circumstances have transpired which have further tended to force upon Her Majesty's Government the adoption of measures for providing for the government of the Queen's subjects resident in or resorting to New Zealand.

With that view it is proposed that certain parts of the islands of New Zealand should be added to the colony of New South Wales as a dependency of that government; and Captain Hobson, R.N., who has been selected to proceed as British Consul, will also be appointed to the office of Lieutenant-Governor. It is further proposed to instruct Governor Sir George Gipps to recommend to the Legislative Council of New South Wales the enactment of all necessary laws for raising in New Zealand a revenue adequate to the maintenance of the Lieutenant-Governor,

Mr. Stephen,  
12th December 1838.

Mr. Backhouse,  
31st December 1838.



and of such other officers as may be indispensable for his assistance in the administration of the affairs of the settlement. Lord Normanby proposes to authorize the payment to Captain Hobson, from the revenue so to be raised, of £500 per annum, in addition to his salary as consul. It will probably be also necessary to provide for the appointment of a judge, of a public prosecutor, of a colonial secretary, of a police establishment, of a treasurer, and of the subordinate officers of revenue. In the present stage of the business it is impossible to state, with any degree of exactness, the number or the emolument of these officers. Lord Normanby can therefore only request the concurrence of the Lords of the Treasury in delegating to Sir George Gipps a general authority to make all the necessary arrangements on the most moderate scale, and on the express condition that the expense shall be defrayed entirely from a revenue to be raised within the settlement itself. In the meantime there are some inevitable expenses for the passage and outfit of Captain Hobson, for which Lord Normanby is of opinion that provision should be made; and, with the concurrence of the Lords Commissioners, his Lordship would propose that this expense should be defrayed by the agent for New South Wales, as the settlement would be a dependency on that colony; but, conceiving that there should be separate accounts of the revenue of New Zealand, his Lordship would propose that the advance thus to be made should be considered as a debt, to be repaid to the Treasury of New South Wales from that of New Zealand on the earliest opportunity.

Although Lord Normanby is unable now to state with precision the precise amount of this expenditure, it would be as low as possible. In addition to the expense of the voyage, it must involve the purchase of a frame-house for the immediate reception of the Lieutenant-Governor, and of some articles which would be required for his immediate use in the public service, such, for example, as stationery, &c. Of these an estimate will be sent to the Lords Commissioners as soon as their Lordships' acquiescence in the general principle shall have been signified to Lord Normanby.

*A. Y. Spearman, Esq.,  
&c. &c. &c.*

I have, &c.,  
JAMES STEPHEN.

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No. 11.

From G. J. PENNINGTON, Esq., to JAMES STEPHEN, Esq.

SIR,

*Treasury Chambers, 22nd June, 1839.*

No. 11.

THE Lords Commissioners of Her Majesty's Treasury have had before them your Letters of the 13th and 18th instant, and their Enclosures, relating to the British subjects resident in New Zealand, and to the establishment of a British Consulate in those islands; and have also referred to the provision for defraying the expense of that Consulate, which has been inserted in the Estimate for Consular Services for the years 1839-40, now before the House of Commons.

With reference to the proposition brought under the consideration of the Board by your Letter of the 13th instant, that, for the purpose of providing for the government of British subjects resident in, or resorting to, New Zealand, certain parts thereof should be added as a dependency to the colony of New South Wales, and that the officer selected to proceed to New Zealand, as British Consul, should likewise receive an appointment as Lieutenant-Governor of the dependent Settlement thus contemplated; and, with a view to provide for the maintenance of this officer, and of the other public functionaries whose assistance would be requisite for the due administration of the affairs of this dependency, that his Excellency Sir G. Gipps should be instructed to recommend to the Legislative Council of New South Wales the enactment of all necessary laws for raising an adequate revenue in New Zealand; and, with reference likewise to the request that this Board will concur in delegating to the Governor of New South Wales a general authority to make all necessary arrangements on the most moderate scale for giving effect to those propositions, on the express condition that the expense shall be defrayed entirely from revenue to be raised in New Zealand, I have it in command from my Lords to request you will state to the Marquis of Normanby, that, concurring in opinion with his Lordship as to the necessity of establishing some competent control over British subjects in the New Zealand Islands, they would be prepared, upon the contemplated cession in sovereignty to the British Crown of territories within those

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No. 10.

James Stephen, Esq.  
to A. Y. Spearman,  
Esq.

13th June 1839.

G. J. Pennington, Esq.  
to James Stephen,  
Esq.

22nd June 1839.



No. 11.

G.J. Pennington, Esq.  
to James Stephen,  
Esq.

22nd June 1839.

islands which have been, or may be, acquired by Her Majesty's subjects under grants from the different chiefs being obtained, also to concur in the proposed arrangements for the government of the ceded territory, and for raising a revenue to defray the expense of the establishments it would be necessary to maintain for this purpose; but I am to request you will further observe to Lord Normamby, that, adverting to the peculiar circumstances which have attended the location of British subjects within the territory in question, my Lords deem it necessary to suggest that the annexation of any part of that territory to the Government of New South Wales, and the exercise of the powers it is intended to confide to the Governor and Council of New South Wales, or to the officer about to proceed to New Zealand in his capacity of Lieutenant-Governor, or any assumption of authority beyond that attaching to a British Consulate, should be strictly contingent upon the indispensable preliminary of the territorial cession having been obtained by amicable negotiation with, and free concurrence of, the native chiefs.

James Stephen, Esq.,  
&c. &c. &c.

(Signed)

I am, &amp;c.,

G. J. PENNINGTON.

No. 12.

From HENRY LABOUCHERE, Esq., to JOHN BACKHOUSE, Esq.

No. 12.

Henry Labouchere,  
Esq. to John Back-  
house, Esq.

3rd July 1839.

SIR,

3rd July 1839.

WITH reference to your letter of the 31st December last, I am directed by the Marquis of Normanby to request that you will state to Lord Palmerston that his Lordship would beg to recommend that Captain William Hobson, R.N., should proceed to New Zealand in the character of British Consul, and that you will move Lord Palmerston to furnish Captain Hobson with the usual commission as Consul, and with such instructions as may be necessary.

I am further directed to transmit, for Lord Palmerston's information, copies of a correspondence which has passed between this department and the Board of Treasury, showing the manner in which it is proposed to provide for the government of British subjects in New Zealand.

Mr. Stephen,

13th June 1839.

Mr. Pennington,

22nd June 1839.

I am, &amp;c.,

(Signed)

HENRY LABOUCHERE.

John Backhouse, Esq.

No. 13.

No. 13.

Copy of  
Treasury Minute.  
19th July 1839.

COPY of TREASURY MINUTE, 19th July 1839, sanctioning an Advance from the Revenues of New South Wales, on account of the Expenses of the Officer about to proceed to New Zealand as Consul, &c.

READ letter from Mr. Stephen, dated 4th instant, transmitting, by direction of the Marquis of Normanby, for the consideration of this Board, with reference to a communication from his Lordship's department of 13th ultimo, on the subject of the establishment of some British authority in New Zealand, a letter from Captain Hobson, of the Royal Navy, who is about to proceed to New Zealand as Her Majesty's Consul, and as eventual Lieutenant-Governor of such territory as may be ceded to Her Majesty in the New Zealand islands, with an estimate of certain expenses it will be necessary to incur in respect of this mission, for his passage to those islands, construction of a residence, presents to native chiefs, and other incidental charges.

My Lords have again before them the letter from Mr. Stephen, of 13th ultimo, adverting to circumstances which had appeared to the Marquis of Normanby, and to Viscount Palmerston, to force upon Her Majesty's Government the adoption of measures for establishing some British authority in New Zealand, for the government of the Queen's subjects resident in, or resorting to, those islands; and, with that view, proposing that a British Consul should forthwith be despatched to New Zealand; and that, upon cession being obtained from the native chiefs of the sovereignty of such territories therein as may be possessed by British subjects, those territories should be added to the colony of New South Wales as a dependency of that government; and likewise proposing that the officer about to proceed to New Zealand as Consul, should be appointed Lieutenant-Governor of this dependency; and that the expenses which must necessarily be incurred for his passage, and for the purchase of articles which will be required for immediate use in the public service, or for presents to the native chiefs, should



be defrayed by advances from the funds of the government of New South Wales, to be hereafter repaid from such revenue as may be raised within the ceded territory by virtue of ordinances to be issued for the purpose by the Governor and Council of New South Wales, from which revenue also all other expenses relating to the government of this dependency are to be provided for.

My Lords also refer to the opinion of Her Majesty's Law Officers, that any territory in New Zealand, of which the sovereignty may be acquired by the British Crown, may lawfully be annexed to the colony of New South Wales, and that the legislative authority of New South Wales, created by the Act of 9 Geo. 4, c. 83, may then be exercised over British subjects inhabiting that territory; and My Lords likewise refer to the provision made in the estimate for consular services, now before the House of Commons, for the salary of a Consul at New Zealand.

My Lords also read their Minute of 21st ultimo, expressing their concurrence in opinion with Her Majesty's Secretary of State, as to the necessity of establishing some competent control over British subjects in the New Zealand islands, and further stating that this Board would be prepared, upon the contemplated cession in sovereignty to the British Crown of territories within those islands which have been or may be acquired by Her Majesty's subjects, under grants from the different chiefs being obtained, to concur in the proposed arrangements for the government of the ceded territory, and for raising a revenue to defray the expense of the establishment it would be necessary to maintain for this purpose.

Write to Mr. Stephen, and, in reply to his further communication of 4th inst., now before this Board, request he will signify to the Marquis of Normanby My Lords' sanction for the advance by the Agent-general for New South Wales, from funds appertaining to the government of that colony, of the amount required to defray the expenses of the officer proceeding to New Zealand, as specified in the estimate furnished by Captain Hobson, and submitted to My Lords in Mr. Stephen's letter, with the understanding that such advance is to be repaid from the revenues of the territory it is proposed to annex to that, government. But Mr. Stephen will at the same time state to the Marquis of Normanby, that, as the proceedings about to be adopted in regard to New Zealand, in the event of the failure of the anticipated cession of sovereignty, and of the contemplated revenue, may involve further expenditure from the funds of this country beyond the salary of the Consul already included in the estimate for consular services for the current year, My Lords have considered it necessary that the arrangement should be brought under the cognizance of Parliament; and they have therefore directed that a copy of their Minute, giving the sanction now notified to Lord Normanby, shall be laid before the House of Commons.

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No. 14.

From the MARQUIS of NORMANBY to the LORDS COMMISSIONERS of the  
ADMIRALTY.

MY LORDS,

*Downing Street, 1st July 1839.*

IT having been deemed expedient by Her Majesty's Government to establish some competent British authority in the islands of New Zealand, it has been determined that Captain Hobson, R.N., should proceed thither, invested with the character of British Consul.

The first object contemplated in making this appointment is to obtain from the native chiefs the cession to Her Majesty of certain parts of those islands, which it is proposed should be there added to the colony of New South Wales as a dependency of that government, when Captain Hobson would assume the character of Lieutenant-Governor.

In furtherance of this object, I am to signify to your Lordships Her Majesty's pleasure that a ship-of-war may be appointed to convey Captain Hobson and his family to New South Wales, and thence to New Zealand, with instructions to the Commander to afford to Captain Hobson such aid and co-operation as he may stand in need of pending his negotiations with the various native chiefs.

I shall take an opportunity of communicating to your Lordships such instructions as may be issued to Captain Hobson for his guidance in the execution of this service.

I have, &c.,

(Signed) NORMANBY.

*The Lords Commissioners of the Admiralty.*

No. 12.

Copy of  
Treasury Minute,  
19th July 1839.

No. 14.

The Marquis of Normanby to the Lords Commissioners of the Admiralty.

1st July 1839.



No. 15.

No. 15

W. Fox Strangways,  
Esq. to the Rt. Hon.  
Henry Labouchere.  
14th August 1839.

From W. FOX STRANGWAYS, Esq., to HENRY LABOUCHERE, Esq.

SIR,

Foreign Office, 14th August 1839.

I AM directed by Viscount Palmerston to acquaint you, for the information of the Marquis of Normanby, that, in compliance with his Lordship's request, a commission has been made out for Captain Hobson, as Her Majesty's Consul in New Zealand; and I transmit to you herewith copies of the instructions which have been addressed to Captain Hobson.

(Signed)  
The Right Honourable Henry Labouchere,  
&c. &c. &c.

I am, &c.,  
W. FOX STRANGWAYS.

(Copy.)

(Enclosure 1 in No. 15.)

SIR,

Foreign Office, August 13th, 1839.

Enclosure 1 in No. 15.

The islands of New Zealand have long been resorted to by British subjects, on account of the valuable articles of commerce which those islands produce, and by reason of the peculiar advantages which they offer to whale ships requiring repair. But the nearness of those islands to the British penal settlements of New South Wales and Van Diemen's Land has also led to their being resorted to as an asylum for fugitive British convicts; and such persons having associated with men left in New Zealand by whale ships, and other vessels, have formed a society, which indispensably requires the check of some contending authority. Her Majesty's Government have, therefore, deemed it expedient to station at New Zealand an officer, with the character and powers of a British Consul; and I have the satisfaction to acquaint you, that the Queen has been graciously pleased to select you for that appointment.

I enclose to you herewith the Queen's Commission, as Her Majesty's Consul in New Zealand.

You will lose no time in making yourself practically conversant with the details of the consular service, and with the nature and extent of your duties.

The General Instructions to Her Majesty's Consuls, of which a copy is herewith enclosed, contain full directions for the guidance of your official conduct on all ordinary occasions; and special instructions on particular points will be given to you from time to time, as occasion may require. I also enclose to you copies of Circular Despatches, dated 30th of September 1833, and 1st of October 1836; and I have to call your particular attention to the directions contained in those Despatches, enjoining the careful preservation of the archives of the consulate.

You will be punctual in forwarding, at the regular periods, the returns required by the General Instructions; and it will be your duty to avail yourself of every favourable opportunity for collecting and transmitting to me any useful or interesting information relating to commerce, navigation, agriculture, and any other branch of statistics.

You will receive a salary of £500 a year, commencing ten days before the day of your embarkation, and you will consider yourself restricted from engaging in mercantile pursuits.

Captain Hobson, R. N.,  
Her Majesty's Consul, New Zealand.

I am, &c.  
(Signed) PALMERSTON.

(Copy.)

(Enclosure 2 in No. 15.)

SIR,

Foreign Office, August 13th, 1839.

Enclosure 2 in No. 15.

The object which Her Majesty's Government have in view, in stationing a Consul at New Zealand, is intimately connected with the colonial policy of this country; and it is desirable, therefore, that Her Majesty's Consul in New Zealand should correspond with the Colonial Department, as well as with the Foreign Office.

I have accordingly to desire, that you will obey whatever instructions you may receive from the Secretary of State for the Colonial Department, and that you will report to him, from time to time, as occasion may require.

You will confine your reports to me, to the consular matters which are adverted to in my Despatch, No. 1, of this day's date.

Captain Hobson, R. N.,  
Her Majesty's Consul, New Zealand.

I am, &c.  
(Signed) PALMERSTON.



No. 16.

From the Marquis of NORMANBY to Captain HOBSON, R.N.

No. 16.

SIR,

*Downing Street, August 14th, 1839.*

The Marquis of Normanby to Captain Hobson, R.N.  
14th August 1839.

YOUR appointment to the office of Her Majesty's Consul at New Zealand having been signified to you by Viscount Palmerston, and his Lordship having conveyed to you the usual instructions for your guidance in that character, it remains for me to address you on the subject of the duties which you will be called to discharge, in a separate capacity, and under my own official superintendence.

The acquaintance which your service in Her Majesty's Navy has enabled you to obtain with the state of society in New Zealand, relieves me from the necessity of entering on any explanations on that subject. It is sufficient that I should generally notice the fact, that a very considerable body of Her Majesty's subjects have already established their residence and effected settlements there, and that many persons in this kingdom have formed themselves into a society, having for its object the acquisition of land, and the removal of emigrants to those islands.

Her Majesty's Government have watched these proceedings with attention and solicitude. We have not been insensible to the importance of New Zealand to the interests of Great Britain in Australia, nor unaware of the great natural resources by which that country is distinguished, or that its geographical position must in seasons, either of peace or of war, enable it, in the hands of civilized men, to exercise a paramount influence in that quarter of the globe. There is, probably, no part of the earth in which colonization could be effected with a greater or surer prospect of national advantage.

On the other hand, the Ministers of the Crown have been restrained by still higher motives from engaging in such an enterprise. They have deferred to the advice of the Committee appointed by the House of Commons in the year 1836, to inquire into the state of the Aborigines residing in the vicinity of our colonial settlements; and have concurred with that Committee in thinking that the increase of national wealth and power, promised by the acquisition of New Zealand, would be a most inadequate compensation for the injury which must be inflicted on this kingdom itself, by embarking in a measure essentially unjust, and but too certainly fraught with calamity to a numerous and inoffensive people, whose title to the soil and to the sovereignty of New Zealand is indisputable, and has been solemnly recognized by the British Government. We retain these opinions in unimpaired force; and though circumstances entirely beyond our control have at length compelled us to alter our course, I do not scruple to avow that we depart from it with extreme reluctance.

The necessity for the interposition of the Government has, however, become too evident to admit of any further inaction. The reports which have reached this office within the last few months, establish the facts, that about the commencement of the year 1838, a body of not less than two thousand British subjects had become permanent inhabitants of New Zealand; that amongst them were many persons of bad or doubtful character—convicts who had fled from our penal settlements, or seamen who had deserted their ships; and that these people, unrestrained by any law, and amenable to no tribunals, were alternately the authors and the victims of every species of crime and outrage. It further appears that extensive cessions of land have been obtained from the natives, and that several hundred persons have recently sailed from this country to occupy and cultivate those lands. The spirit of adventure having thus been effectually roused, it can no longer be doubted that an extensive settlement of British subjects will be rapidly established in New Zealand; and that, unless protected and restrained by necessary laws and institutions, they will repeat, unchecked, in that quarter of the globe, the same process of war and spoliation, under which uncivilized tribes have almost invariably disappeared as often as they have been brought into the immediate vicinity of emigrants from the nations of Christendom. To mitigate and, if possible, to avert these disasters, and to rescue the emigrants themselves from the evils of a lawless state of society, it has been resolved to adopt the most effective measures for establishing amongst them a settled form of civil government. To accomplish this design is the principal object of your mission.

I have already stated that we acknowledge New Zealand as a sovereign and independent state, so far at least as it is possible to make that acknowledgement in favour of a people composed of numerous, dispersed, and petty tribes, who possess few political relations to each other, and are incompetent to act, or even



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The Marquis of Normanby to Captain Hobson, R.N.

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to deliberate, in concert. But the admission of their rights, though inevitably qualified by this consideration, is binding on the faith of the British Crown. The Queen, in common with Her Majesty's immediate predecessor, disclaims, for herself and for her subjects, every pretension to seize on the islands of New Zealand, or to govern them as a part of the dominion of Great Britain, unless the free and intelligent consent of the natives, expressed according to their established usages, shall be first obtained. Believing, however, that their own welfare would, under the circumstances I have mentioned, be best promoted by the surrender to Her Majesty of a right now so precarious, and little more than nominal, and persuaded that the benefits of British protection, and of laws administered by British judges, would far more than compensate for the sacrifice by the natives, of a national independence, which they are no longer able to maintain, Her Majesty's Government have resolved to authorize you to treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any parts of those islands which they may be willing to place under Her Majesty's dominion. I am not unaware of the difficulty by which such a treaty may be encountered. The motives by which it is recommended are, of course, open to suspicion. The natives may, probably, regard with distrust a proposal which may carry on the face of it the appearance of humiliation on their side, and of a formidable encroachment on ours; and their ignorance even of the technical terms in which that proposal must be conveyed, may enhance their aversion to an arrangement of which they may be unable to comprehend the exact meaning, or the probable results. These, however, are impediments to be gradually overcome by the exercise, on your part, of mildness, justice, and perfect sincerity in your intercourse with them. You will, I trust, find powerful auxiliaries amongst the missionaries, who have won and deserved their confidence, and amongst the older British residents who have studied their character, and acquired their language.

It is almost superfluous to say that in selecting you for the discharge of this duty, I have been guided by a firm reliance on your uprightness and plain dealing. You will, therefore, frankly and unreservedly explain to the natives, or their chiefs, the reasons which should urge them to acquiesce in the proposals you will make to them. Especially you will point out to them the dangers to which they may be exposed by the residence amongst them of settlers amenable to no laws or tribunals of their own; and the impossibility of Her Majesty's extending to them any effectual protection unless the Queen be acknowledged as the sovereign of their country, or at least of those districts within, or adjacent to which, Her Majesty's subjects may acquire lands or habitations. If it should be necessary to propitiate their consent by presents or other pecuniary arrangements, you will be authorized to advance at once, to a certain extent, in meeting such demands, and beyond those limits you will reserve and refer them for the decision of Her Majesty's Government.

It is not, however, to the mere recognition of the sovereign authority of the Queen that your endeavours are to be confined, or your negotiations directed. It is further necessary that the chiefs should be induced, if possible, to contract with you, as representing Her Majesty, that henceforward no lands shall be ceded, either gratuitously or otherwise, except to the Crown of Great Britain. Contemplating the future growth and extension of a British colony in New Zealand, it is an object of the first importance that the alienation of the unsettled lands within its limits should be conducted, from its commencement, upon that system of sale of which experience has proved the wisdom, and the disregard of which has been so fatal to the prosperity of other British settlements. With a view to those interests, it is obviously the same thing whether large tracts of land be acquired by the mere gift of the Government, or by purchases effected on nominal considerations from the Aborigines. On either supposition, the land revenue must be wasted; the introduction of emigrants delayed or prevented, and the country parcelled out amongst large landholders, whose possessions must long remain an unprofitable, or rather a pernicious waste. Indeed, in the comparison of the two methods of acquiring land gratuitously, that of grants from the Crown, mischievous as it is, would be the less inconvenient, as such grants must be made with at least some kind of system, with some degree of responsibility, subject to some conditions and recorded for general information. But in the case of purchases from the natives, even these securities against abuse must be omitted; and none could be substituted for them. You will, therefore, immediately on your arrival, announce, by a proclamation addressed to all the Queen's subjects in New Zealand, that Her Majesty will not acknowledge as valid



any title to land which either has been, or shall hereafter be acquired, in that country which is not either derived from, or confirmed by, a grant to be made in Her Majesty's name, and on her behalf. You will, however, at the same time, take care to dispel any apprehensions which may be created in the minds of the settlers that it is intended to dispossess the owners of any property which has been acquired on equitable conditions, and which is not upon a scale which must be prejudicial to the latent interests of the community.

Extensive acquisitions of such lands have undoubtedly been already obtained, and it is probable that, before your arrival, a great addition will have been made to them. The embarrassments occasioned by such claims will demand your earliest and most careful attention.

I shall, in the sequel, explain the relation in which the proposed colony will stand to the government of New South Wales. From that relation I propose to derive the resource necessary for encountering the difficulty I have mentioned. The Governor of that colony will, with the advice of the Legislative Council, be instructed to appoint a Legislative Commission to investigate and ascertain what are the lands in New Zealand held by British subjects under grants from the natives, how far such grants were lawfully acquired, and ought to be respected, and what may have been the price or other valuable considerations given for them. The Commissioners will make their report to the Governor, and it will then be decided by him how far the claimants, or any of them, may be entitled to confirmatory grants from the Crown, and on what conditions such confirmations ought to be made.

The propriety of immediately subjecting to a small annual tax all uncleared lands within the British settlements in New Zealand, will also engage the immediate attention of the Governor and Council of New South Wales. The forfeiture of all lands, in respect of which the tax shall remain for a certain period in arrear, would probably, before long, restore to the demesne of the Crown so much of the waste land as may be held, unprofitably to themselves and to the public, by the actual claimants.

Having, by these methods, obviated the dangers of the acquisition of large tracts of country by mere land-jobbers, it will be your duty to obtain, by fair and equal contracts with the natives, the cession to the Crown of such waste lands as may be progressively required for the occupation of settlers resorting to New Zealand. All such contracts should be made by yourself, through the intervention of an officer expressly appointed to watch over the interests of the aborigines as their protector. The re-sales of the first purchases that may be made, will provide the funds necessary for future acquisitions; and, beyond the original investment of a comparatively small sum of money, no other resource will be necessary for this purpose. I thus assume that the price to be paid to the natives by the local government will bear an exceedingly small proportion to the price for which the same lands will be re-sold by the Government to the settlers. Nor is there any real injustice in this inequality. To the natives or their chiefs much of the land of the country is of no actual use, and, in their hands, it possesses scarcely any exchangeable value. Much of it must long remain useless, even in the hands of the British Government also, but its value in exchange will be first created, and then progressively increased, by the introduction of capital and of settlers from this country. In the benefits of that increase the natives themselves will gradually participate.

All dealings with the aborigines for their lands must be conducted on the same principles of sincerity, justice, and good faith, as must govern your transactions with them for the recognition of Her Majesty's Sovereignty in the Islands. Nor is this all: they must not be permitted to enter into any contracts in which they might be the ignorant and unintentional authors of injuries to themselves. You will not, for example, purchase from them any territory, the retention of which by them would be essential, or highly conducive, to their own comfort, safety or subsistence. The acquisition of land by the Crown for the future settlement of British subjects must be confined to such districts as the natives can alienate, without distress or serious inconvenience to themselves. To secure the observance of this,—will be one of the first duties of their official protector.

There are yet other duties owing to the aborigines of New Zealand, which may be all comprised in the comprehensive expression of promoting their civilization,—understanding by that term whatever relates to the religious, intellectual, and social advancement of mankind. For their religious instruction, liberal provision has already been made by the zeal of the missionaries, and of the mis-



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manby to Captain  
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sionary societies in this kingdom; and it will be at once the most important, and the most grateful of your duties to this ignorant race of men, to afford the utmost encouragement, protection, and support, to their Christian teachers. I acknowledge, also, the obligation of rendering to the missions such pecuniary aid as the local Government may be able to afford, and as their increased labours may reasonably entitle them to expect. The establishment of schools for the education of the aborigines in the elements of literature, will be another object of your solicitude; and until they can be brought within the pale of civilized life, and trained to the adoption of its habits, they must be carefully defended in the observance of their own customs, so far as these are compatible with the universal maxims of humanity and morals. But the savage practices of human sacrifice, and of cannibalism, must be promptly and decisively interdicted. Such atrocities, under whatever plea of religion they may take place, are not to be tolerated within any part of the dominions of the British Crown.

It remains to consider in what manner provision is to be made for carrying these instructions into effect, and for the establishment and exercise of your authority over Her Majesty's subjects who may settle in New Zealand, or who are already resident there. Numerous projects for the establishment of a constitution for the proposed colony have, at different times, been suggested to myself and my immediate predecessor in office; and during the last session of Parliament a Bill for the same purpose was introduced into the House of Commons, at the instance of some persons immediately connected with the emigrations then contemplated. The same subject was carefully examined by a Committee of the House of Lords. But the common result of all inquiries, both in this office and in either House of Parliament, was to show the impracticability of the schemes proposed for adoption, and the extreme difficulty of establishing at New Zealand any institutions, legislative, judicial, or fiscal, without some more effective control than could be found amongst the settlers themselves in the infancy of their settlement. It has, therefore, been resolved to place whatever territories may be acquired in sovereignty by the Queen in New Zealand, in the relation to a dependency of the Government of New South Wales. I am of course fully aware of the objections which may be reasonably urged against this measure; but, after the most ample investigation, I am convinced that, for the present, there is no other practical course which would not be opposed by difficulties still more considerable, although I trust that the time is not distant when it may be proper to establish in New Zealand itself a local legislative authority.

In New South Wales there is a Colonial Government, possessing a comparatively long experience, sustained by a large revenue, and constituted in such a manner as is best adapted to enable the legislative and executive authorities to act with promptitude and decision. It presents the opportunity of bringing the internal economy of the proposed new colony under the constant revision of a power sufficiently near to obtain early and accurate intelligence, and sufficiently remote to be removed from the influence of the passions and prejudices by which the first colonists must, in the commencement of their enterprise, be agitated.

It is impossible to confide to an indiscriminate body of persons, who have voluntarily settled themselves in the immediate vicinity of the numerous population of New Zealand, those large and irresponsible powers which belong to the representative system of Colonial Government. Nor is that system adapted to a colony struggling with the first difficulties of their new situation. Whatever may be the ultimate form of government to which the British settlers in New Zealand are to be subject, it is essential to their own welfare, not less than to that of the aborigines, that they should at first be placed under a rule, which is at once effective, and to a considerable degree external.

The proposed connection with New South Wales will not, however, involve the extension to New Zealand of the character of a penal settlement. Every motive concurs in forbidding this; and it is to be understood as a fundamental principle of the new colony, that no convict is ever to be sent thither to undergo his punishment.

The accompanying copy of my correspondence with the law officers of the Crown will explain to you the grounds of law on which it is concluded, that, by the annexation of New Zealand to New South Wales, the powers vested by Parliament in the Governor and Legislative Council of the older settlement might be exercised over the inhabitants of the new colony. The accompanying commission, under the great seal, will give effect to this arrangement; and the warrant,



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The Marquis of Normanby to Captain Hobson, R.N.

14th August 1839.

which I enclose, under Her Majesty's sign manual, will constitute you Lieutenant-Governor of that part of the New South Wales colony which has thus been extended over the New Zealand islands. These instruments you will deliver to Sir George Gipps, who, on your proceeding to New Zealand, will place them in your hands to be published there. You will then return them to him to be deposited among the archives of the New South Wales Government. In the event of your death, or absence, the officer administering the government of New South Wales will, provisionally, and until Her Majesty's pleasure can be known, appoint a Lieutenant-Governor in your place, by an instrument under the public seal of his government.

It is not, for the present, proposed to appoint any subordinate officers for your assistance. That such appointments will be indispensable is not, indeed, to be doubted. But I am unwilling to advance at first beyond the strict limits of the necessity which alone induces the Ministers of the Crown to interfere at all on this subject. You will confer with Sir George Gipps as to the number and the nature of the official appointments which should be made at the commencement of the undertaking, and as to the proper rate of their emoluments. These must be fixed with the most anxious regard to frugality in the expenditure of the public resources.

The selection of the individuals, by whom such offices are to be borne, must be made by yourself, from the colonists either of New South Wales or New Zealand, but upon the full and distinct understanding that their tenure of office, and even the existence of the offices which they are to hold, must be provisional, and dependent upon the future pleasure of the Crown. Amongst the officers thus to be created, the most evidently indispensable are those of a judge, a public prosecutor, a protector of aborigines, a colonial secretary, a treasurer, a surveyor-general of lands, and a superintendent of police. Of these the judge alone will require the enactment of a law to create and define his functions. The Act now pending in Parliament for the revival, with amendments, of the New South Wales Act, will, if passed into a law, enable the Governor and Legislative Council to make all necessary provision for the establishment in New Zealand of a court of justice and a judicial system, separate from, and independent of, the existing Supreme Court. The other functionaries I have mentioned can be appointed by the Governor in the unaided exercise of the delegated prerogative of the Crown.

Whatever laws may be required for the government of the new colony will be enacted by the Governor and Legislative Council. It will be his duty to bring under their notice such recommendations as you may see cause to convey to him on subjects of this nature.

The absolute necessity of a revenue being raised to defray the expenses of the government of the proposed settlements in New Zealand, has not, of course, escaped my careful attention. Having consulted the Lords of the Treasury on this subject, I have arranged with their Lordships that, until the sources of such a revenue shall have been set in action, you should be authorized to draw on the Government of New South Wales for your unavoidable expenditure. Separate accounts, however, will be kept of the public revenue of New Zealand, and of the application of it; and whatever debt may be contracted to New South Wales, must be replaced by the earliest possible opportunity. Duties of import on tobacco, spirits, wine, and sugar, will probably supersede the necessity for any other taxation; and such duties, except on spirits, will probably be of a very moderate amount.

The system at present established in New South Wales regarding land will be applied to all the waste lands which may be acquired by the Crown in New Zealand. Separate accounts must be kept of the land revenue, subject to the necessary deductions for the expense of surveys and management, and for the improvement, by roads and otherwise, of the unsold territory; and, subject to any deductions which may be required to meet the indispensable exigencies of the local government, the surplus of this revenue will be applicable, as in New South Wales, to the charge of removing emigrants from this kingdom to the new colony.

The system established in New South Wales to provide for the religious instruction of the inhabitants has so fully justified the policy by which it was dictated, that I could suggest no better means of providing for this all-important object in New Zealand. It is, however, gratifying to know that the spiritual wants of the settlers will, in the commencement of the undertaking, be readily and amply provided for by the missionaries of the Established Church of England, and of other Christian communions, who have been so long settled in those islands. It will not be difficult to secure for the European inhabitants some portion of that



No. 16.

The Marquis of Normanby to Captain Hobson, R.N.

14th August 1839.

time and attention which the missionaries have hitherto devoted exclusively to the aborigines.

I enclose for your information and guidance copies of a correspondence between this Department and the Treasury, referring you to Sir George Gipps for such additional instructions as may enable you to give full effect to the views of Her Majesty's Government on the subject of finance. You will observe that the general principle is that of maintaining in the proposed colony a system of revenue expenditure and account entirely separate from that of New South Wales, though corresponding with it as far as that correspondence can be maintained.

The accompanying volume of Rules and Regulations for the Colonial service will place you in possession of many details for the guidance of your official conduct. You will, however, understand that so much of that volume as relates to correspondence with this department, will not be strictly applicable to your situation. Your correspondence with myself will, as far as may be practicable, be carried on through the Governor of New South Wales; you will, in fact, be one of the officers of that Government, and you will apply to the head of it for instructions in all those cases in which he would himself address a similar reference to Her Majesty's Government in this country. This rule, however, is not to be so strictly construed as to prevent your transmitting to me direct reports of every occurrence of which Her Majesty's Government should be informed, as often as opportunities may occur of communicating with this country more rapidly than such communications could be made through Sydney, and whenever the occasion shall appear to you of sufficient importance to justify this deviation from the general rule. It will, however, be your duty to transmit to the Governor copies of all despatches which you may thus address directly to this office. He also will convey to me transcripts of all his correspondence with you by the first opportunity which may present itself after any branch of that correspondence has reached its close.

I have thus attempted to touch on all the topics on which it seems to me necessary to address you, on your departure from this country. Many questions have been unavoidably passed over in silence, and others have been adverted to in a brief and cursory manner, because I am fully impressed with the conviction, that in such an undertaking as that in which you are about to engage, much must be left to your own discretion, and many questions must occur which no foresight could anticipate or properly resolve before-hand. Reposing the utmost confidence in your judgment, experience, and zeal for Her Majesty's service, and aware how powerful a coadjutor and how able a guide you will have in Sir G. Gipps, I willingly leave for consultation between you, many subjects on which I feel my own incompetency at this distance from the scene of action to form an opinion.

I have, &amp;c.

Captain Hobson, R.N.

(Signed)

NORMANBY.

No. 17.

Captain HOBSON to the UNDER SECRETARY of the COLONIAL DEPARTMENT.

SIR,

34, Great George Street, August 1839.

No. 17.

Captain Hobson to the Under Secretary of Colonial Department.

August 1839.

In order to avoid any misunderstanding of the views of Government in respect of the duties confided to me as Consul and Lieutenant-Governor of New Zealand, I have the honour to call your attention to some passages of my Instructions, upon which I beg the favour of further explanation.

To facilitate a reference to this document, I have numbered the paragraphs in pencil from one to twenty, commencing at the close of the preamble.

The first paragraph, according to that arrangement, relates to the acquisition of the sovereign rights by the Queen over the Islands of New Zealand, and appears to have reference to other instructions, which I may expect to receive from Lord Palmerston. Under this head I perceive that no distinction is made between the northern and southern islands of New Zealand, although their relations with this country, and their respective advancement towards civilization are essentially different.

The declaration of the independence of New Zealand was signed by the united chiefs of the northern island only (in fact, only of the northern part of that island), and it was to them alone that His late Majesty's letter was addressed on the presentation of their flag; and neither of these instruments had any application what-



August 1839.

soever to the southern islands. It may be of vast importance to keep this distinction in view. Not as regards the natives, towards whom the same measure of justice must be dispensed, however their allegiance may have been obtained: but as it may apply to British settlers, who claim a title to property in New Zealand, as in a free and independent state.

I need not exemplify here the uses that may hereafter be made of this difference in their condition; but it is obvious that the power of the Crown may be exercised with much greater freedom in a country over which it possesses all the rights that are usually assumed by first discoverers, than in an adjoining state, which has been recognized as free and independent. In the course of my negotiations, too, my proceedings may be greatly facilitated by availing myself of this disparity. For, with the wild savages in the southern islands, it appears scarcely possible to observe even the form of a treaty, and there I might be permitted to plant the British flag in virtue of those rights of the Crown to which I have alluded.

The 2nd and 3rd Clauses are quite explicit; but I beg to suggest that the Proclamation to be issued on my landing, be drafted in this country, in order to convey exactly the views of Government, and to guard against misconception.

In the 4th Clause my attention is directed to the acquisition of lands by British subjects, and in the following clause, the whole power of interference is confided to Commissioners, who are to be appointed in New South Wales, and who are to report their proceedings to Sir George Gipps. I do not disapprove of this regulation, but on the contrary, I am glad to be relieved from all interference in matters of dispute, which would have a tendency to place me at issue with so large a number of persons over whom I am appointed to preside; but I am at a loss to know to what point I am to direct my attention, beyond the mere preservation of the peace.

The 6th Clause is quite understood. In the latter part of the 7th and in the 8th Clause, allusion is made to the Protector of Aborigines. Were the functions of this officer confined to the protection of the natives from physical injury or injustice, there could not be two opinions on the subject of his duty. But in matters which relate to their general welfare, he and I, with equal zeal in their cause, may entertain very different ideas. I sincerely hope that the duties of this officer may be exactly defined, and that the Government may be secured from the effect of captious opposition.

Clause 9. To the missionaries may be safely confided the religious instruction of the natives. But I cannot bring myself to believe that they will consent to give any portion of the time they have hitherto devoted exclusively to that object, for the benefit of British subjects.

In this part of my instructions I am likewise directed "to interdict the savage practices of cannibalism and human sacrifice." May I request more explicit instructions on this important subject? Shall I be authorized, after the failure of every other means, to repress these diabolical acts by force? And what course am I to adopt to restrain the no less savage native wars, or to protect tribes who are oppressed (probably for becoming Christians) by their more powerful neighbours.

Clauses 10 and 11 relate to the form of government under which New Zealand is to be colonized.

Clause 12 forbids the introduction of convicts. There is nothing I would more regret than the extension to New Zealand of the character of a penal settlement; but I do think, with every possible deference for the superior judgment that dictated the prohibition, that convict labour on roads and public works under the direction of Government, may be most beneficially applied. At the Mauritius, Indian convicts are so employed, and the great prosperity of that colony is mainly attributable to the facility of communication to all parts of the island that is thus obtained. Such will be the demand for labour in New Zealand, that I despair of getting roads made without the aid of convicts.

Clause 13 relates to the Commission under the Great Seal, addressed to Sir George Gipps, and to my Warrant as Lieutenant-Governor. May I request to be informed if I have the power, whilst holding a warrant as Lieutenant-Governor under the Governor of New South Wales, to appoint or suspend magistrates, to embody and call out militia, or to direct the movements of the military force? If I do not possess this power in virtue of my warrant from the Crown, it will be highly essential that provision should be made by the Governor and Legislative Council of New South Wales to vest me with authority on these important matters.



No. 17.

Captain Hobson to  
the Under Secretary  
of Colonial Depart-  
ment.

August 1839.

Clause 14 provides for the appointment of public officers of my selection by the Governor of New South Wales, and refers to the establishment in New Zealand of a Court of justice and a judicial system. I should like to be informed in this case, as in the last, whether in my subordinate capacity, as Lieutenant-Governor, I am authorized to execute or to remit the punishment of criminals?

Clause 15 relates to the revenue; and recommends, amongst other duties, one on tobacco. It should be recollected that tobacco is at present almost the circulating medium: and a duty on it will bear very hard upon the natives, who indulge freely in its use. And as this people will naturally estimate our interference with their country by its first practical results, I fear they will look upon us with distrust or suspicion if they suffer any inconvenience from our enactments.

Clause 16, regarding waste lands, is very clear and satisfactory.

Clause 17 relates to the religious instruction and the spiritual wants of the British settlers in New Zealand. I trust if it shall be found that the missionaries have already full occupation; and if, as I have before observed, they object to withdraw any part of their attention from the duties they have hitherto discharged, that an early provision may be made for these important objects by the appointment of chaplains and teachers from New South Wales.

The concluding part of my instructions is perfectly clear and explicit. There are one or two subjects that have not been noticed, which I hope may still engage the attention of the Secretary of State. No allusion has been made to a military force, nor has any instruction issued for the arming and equipping of militia. The presence of a few soldiers would check any disposition to revolt, and would enable me to forbid in a firmer tone those inhuman practices I have been ordered to restrain. The absence of such support, on the other hand, will encourage the disaffected to resist my authority, and may be the means of entailing on us eventually difficulties that I am unwilling to contemplate.

I have, &amp;c.

To the Under-Secretary of State,  
Colonial Department.

(Signed) W. HOBSON.

No. 18.

From the Marquis of NORMANBY to Captain HOBSON.

SIR,

Downing Street, August 15th, 1839.

No. 18.

The Marquis of Nor-  
manby to Captain  
Hobson, R.N.

15th August 1839.

Mr. LABOUCHERE has laid before me your letter to him, of the instant, requesting an explanation of some questions which have occurred to you on the perusal of my letter of instructions. I have to return the following answer to your inquiries.

1. The remarks which I have made respecting the independence of the people of New Zealand, relate, as you correctly suppose, to the tribes inhabiting the northern island only. Our information respecting the southern island is too imperfect to allow me to address to you any definite instructions as to the course to be pursued there. If the country is really, as you suppose, uninhabited, except but by a very small number of persons in a savage state, incapable from their ignorance of entering intelligently into any treaties with the Crown, I agree with you that the ceremonial of making such engagements with them would be a mere illusion and pretence which ought to be avoided. The circumstances noticed in my instructions, may perhaps render the occupation of the southern island a matter of necessity, or of duty to the natives. The only chance of an effective protection will probably be found in the establishment by treaty, if that be possible, or if not, then in the assertion, on the ground of discovery, of Her Majesty's sovereign rights over the island. But in my inevitable ignorance of the real state of the case, I must refer the decision in the first instance to your own discretion, aided by the advice which you will receive from the Governor of New South Wales.

2. I enclose, according to your desire, the draft of the Proclamation to be addressed to the Queen's subjects at New Zealand, referring it, however, to Sir George Gipps and to yourself to introduce any alterations which the facts of the case, when more clearly ascertained, may appear to you and to him to prescribe.

3. It is my intention that the Governor of New South Wales, or the Commissioners to be appointed by him, should conduct the whole investigation and settlement of the question regarding lands which may have been occupied in New Zealand by British subjects; and that you should be thus rescued from a position



which might otherwise bring you into unfriendly relations with large numbers of those over whom you would be called to preside.

4. The protector of Aborigines cannot be brought into any relation to you which would throw any doubt on the respective limits of your authority and his, because he would be, in the fullest sense of the term, your subordinate officer, yielding implicit obedience to all your lawful instructions, and reporting to you all his proceedings.

5. If the Missionaries should not ultimately be able to undertake the religious instruction of their fellow countrymen, measures must of course be taken to supply the religious wants of the future colony. But in the uncertainty under which Her Majesty's Government are at present compelled to act, I think it more safe to rely on the temporary assistance of the various missions in the island, than to embark in any ecclesiastical arrangements which it might ultimately be impossible to complete, and the non-fulfilment of which might involve the ruin of any clergyman embarking in them.

6. It is impossible for me to prescribe the course to be pursued for the prevention of cannibalism, human sacrifices, and warfare among the native Tribes. But I have no difficulty in stating that, if all the arts of persuasion and kindness should prove unavailing, practices so abhorrent from the first principles of morality, and so calamitous to those by whom they are pursued, should be repressed by authority, and, if necessary, by actual force, within any part of the Queen's dominions. I am, however, convinced that habits so repulsive to our common nature as cannibalism and human sacrifice, may be checked with little difficulty; because the opposition to them will be seconded by feelings which are too deeply rooted in the minds of all men, the most ignorant or barbarous not excepted, to be eradicated by any customs however inveterate, or by any errors of opinion however widely diffused. The New Zealanders will probably yield a willing assent to your admonitions, when taught to perceive with what abhorrence such usages are regarded by civilized men.

7. However much immediate advantage may be derived from convict labour, the benefit is purchased at last at so heavy a price, that even if the welfare of the colony were alone in question, I should regard the conversion of New Zealand into a penal settlement as a short-sighted policy. But when I advert to the effect of that measure on the Aborigines, and on the administration of the criminal law in this kingdom, my opposition to it is fixed and unalterable.

8. All the powers necessary for the proper conduct of your office will be conferred on you by Acts of the Governor or Legislature of New South Wales, who will also make the necessary provision for the establishment of Courts of Justice and a Judicial System in New Zealand.

9. The Governor and Council will deliberate with you on the proper articles on which to impose Import Duties. It is a question which I must refer, in the first instance, to their judgment.

Lastly, I am perfectly aware of the great advantage which you might derive from a military force, and of the inconvenience to which the want of it may expose you. This, however, is a difficulty which must be encountered. It is impossible, at the present time, to detach any of Her Majesty's troops to New Zealand, nor can I foresee any definite period at which it will be practicable to supply that deficiency. It will probably, therefore, be necessary to raise a militia, or to embody an armed police. But this also is amongst the questions which must be reserved for consideration after your arrival, and upon which it will be your duty to consult with the Governor of New South Wales.

Captain Hobson, R.N.

I have, &c.  
(Signed) NORMANBY.

(No. 118.)

No. 19.

The Marquis of NORMANBY to Governor Sir G. GIPPS.

SIR,

Downing Street, August 15, 1839.

I TRANSMIT for your information and guidance the copy of instructions which I have addressed to Captain Hobson, of Her Majesty's Navy, on his embarkation to assume the government of the British Settlements in progress in New Zealand. Those instructions leave me nothing to add in addressing yourself on the same occasion, beyond the expression of my confident belief, that you

No. 18

The Marquis of Normanby to Captain Hobson, R.N.

13th August 1839.

No. 19.

The Marquis of Normanby to Governor Sir George Gipps.

15th August 1839.



No. 19.

The Marquis of Normanby to Governor Sir George Gipps.  
15th August 1836.

will afford to Captain Hobson, and to Her Majesty's Government on this occasion, the full benefit of all the knowledge and experience which you have gained during your long course of public service, and that you and the members of the Legislative Council of New South Wales, will cheerfully undertake those additional duties which Her Majesty has thus been pleased to commit to you and to them.

Governor Sir G. Gipps,  
&c. &c. &c.

I have, &c.  
(Signed) NORMANBY.

No. 20.

From LORD PETRE to the MARQUIS of NORMANBY.

No. 20.

Lord Petre to the Marquis of Normanby.  
12th August 1839.

MY LORD,

*New Zealand Land Company's Office,  
1, Adam Street, Adelphi, 12th August 1839.*

I BEG to address you in my capacity of Chairman of a Board of Directors of this Company, held here this day.

The Directors, relying on the assurances received from your Lordship at the interview with which they were honoured by you on the 13th June last, have felt very anxious to be apprised of the nature of the arrangements contemplated by Her Majesty's Government for enforcing British laws in the intended colony, in order to the due protection of the persons and property of settlers.

The fact of a large body of emigrants being on the point of sailing, renders it indispensable that immediate provision should be made for the purpose I have mentioned; and I am therefore desired to request that, in order to ascertain the actual views of Her Majesty's Government, the Directors may be favoured with another interview at your Lordship's earliest convenience.

*The Marquis of Normanby,*  
&c. &c. &c.

I have, &c.,  
(Signed) PETRE.

No. 21.

From HENRY LABOUCHERE, Esq., to LORD PETRE.

No. 21.

Henry Labouchere, Esq., to Lord Petre.  
19th August 1839.

MY LORD,

*Colonial Office, 19th August 1839.*

I AM directed by the Marquis of Normanby to acknowledge the receipt of your Lordship's letter of the 12th instant, and to acquaint you, in reply, that his Lordship must decline to receive the proposed deputation of gentlemen associated together under the title of the New Zealand Land Company.

Lord Normanby has already, both in conversation with these gentlemen, and in the written communications addressed to them by his directions, declined to recognize them in the capacity in which they are assuming to act, or to give any sanction to their proceedings. The proposed interview could therefore lead to no useful result, and might possibly induce a misconception, against which his Lordship thinks it his duty to protect all persons who may be resorting to New Zealand.

The views of Her Majesty's Government on the subject of the protection which they are anxious to be enabled to afford to British subjects resident in those islands are fully explained in a Minute of the Lords' Commissioners of the Treasury, which was laid on the Table of the House of Commons on the 29th July.

I have, &c.,  
(Signed) HENRY LABOUCHERE.  
*The Lord Petre.*

No. 22.

From ROBERT R. STRANG, Esq., to the Marquis of NORMANBY.

No. 22.

Robert R. Strang, Esq., to the Marquis of Normanby.  
3rd August 1839.

MY LORD,

*Glasgow, 3rd August 1839.*

IN obedience to the directions of a meeting of purchasers of land in the New Zealand Land Company's first or principal settlement to be founded in New



Zealand, and Members of the Scotch Colony, to sail from the Clyde in September next, I beg leave to enclose a Copy of a Resolution passed at a meeting held here on the 31st ult., and I need hardly add, how very satisfactory it would be, were the parties informed on the subject to which that extract refers.

As one of the parties about to embark with my wife and family to a remote country, your Lordship will readily perceive how important it is for myself and those associated with me to know whether the Government of this country intend to establish British law and authority in New Zealand, and if so, how soon that arrangement will take place; and also, whether the transactions of the present Company will be recognized by the Government.

I trust your Lordship will appreciate the motives of the present inquiry, and favour me with an early reply.

*The Marquis of Normanby,*  
&c. &c. &c.

I have, &c.  
ROBERT R. STRANG, *Solicitor.*

No. 22.

Robert R. Strang,  
Esq. to the Marquis  
of Normanby.

3rd August 1839.

(Enclosure in No. 22.)

At Glasgow, the 31st day of July 1839, at a Meeting of purchasers of land in the New Zealand Land Company's first or principal settlement to be founded in New Zealand, and members of the first Scotch colony, to sail from the Clyde in September next.

Enclosure in No. 22.

Present :

Messrs. Francis Logan,  
Archibald Todd,  
Robert R. Strang,  
Adam Reid,  
Ebenezar Hay,  
John Yuelle.

Dr. Logan in the Chair,

*Resolved*,—That as it is of the first importance that the intending colonists should be satisfied as to the intentions of Government, regarding the establishment of British law and authority in New Zealand, contemporaneous with the foundation of the colony, that Mr. Strang be instructed to write to Lord Normanby, and solicit distinct information from his Lordship on the subject.

### No. 23.

From the Right Hon. HENRY LABOUCHERE to ROBERT R. STRANG, Esq.

SIR,

*Downing Street, 12th August 1839.*

No. 23.

I AM directed by the Marquis of Normanby to acknowledge the receipt of your letter of the 3rd instant, enclosing a Resolution passed "At a meeting of purchasers of land in the New Zealand Land Company's first or principal settlement to be founded in New Zealand," &c., and requesting to be informed whether Her Majesty's Government intend to establish British law and authority in New Zealand, and whether the transactions of the present Company will be recognized by the Government.

The Right Hon. H.  
Labouchere to Robert  
R. Strang, Esq.

12th August 1839.

I am to acquaint you in reply, that Her Majesty's Government have adopted such measures as will probably tend to the establishment of British law in parts of the New Zealand Islands, but the success of those measures will partly depend upon contingencies of which it is not possible at present to form a correct estimate.

Her Majesty's Government have no connexion with the Society described as the New Zealand Company, nor any knowledge of their proceedings; and Lord Normanby can hold out no expectation that Her Majesty will be advised to recognize or sanction them.

*Robert R. Strang, Esq.,*  
&c. &c. &c.

I have, &c.  
H. LABOUCHERE.



No. 24.

From ROBERT R. STRANG, Esq. to the Right Hon. HENRY LABOUCHERE.

No. 24.

Robert R. Strang,  
Esq. to the Right Hon.  
Henry Labouchere.  
15th August 1839.

SIR,

20, *Buchanan Street, Glasgow*, 15th August 1839.

I HAVE the honour to acknowledge the receipt of your letter of the 12th instant, and for the information therein contained I beg to thank you.

In again troubling you on this subject, I trust you will not regard my application as intrusive, it being solely my desire to obtain from you, or those in charge of the Colonial Affairs of this country, information upon which I can rely.

In your letter you state that "Lord Normanby can hold out no expectation that Her Majesty will be advised to recognize or sanction" the proceedings of the Company.

Am I to understand that there is any probability of the purchases of land which the New Zealand Land Company have made from the natives, or other inhabitants in New Zealand, being annulled by the Government of this country; or do you think Her Majesty will exercise her right of pre-emption to the exclusion or prejudice of those deriving right from the Company?

I have not yet laid your Communication before the committee in whose name I addressed Lord Normanby; and I beg to state that I now address you in my individual capacity, and will feel particularly obliged by an early reply.

I have, &amp;c.

ROBERT R. STRANG.

*The Right Hon. Henry Labouchere,*  
&c. &c. &c.

No. 25.

From the Right Hon. HENRY LABOUCHERE to ROBERT R. STRANG, Esq.

No. 25.

The Right Hon. H.  
Labouchere to Robert  
R. Strang, Esq.  
20th August 1839.

SIR,

*Colonial Office*, 20th August 1839.

I HAVE received and laid before the Marquis of Normanby your letter of the 15th instant, and I am directed by his Lordship to acquaint you in reply, that he is unable to return any answer to your inquiry respecting purchases of land in New Zealand, as his Lordship has no knowledge whatever of the nature of the title under which the society acting under the name of the New Zealand Company claim to be proprietors of land in those Islands.

I have, &amp;c.

H. LABOUCHERE.

*Robert R. Strang, Esq.,*  
&c. &c. &c.

No. 26.

From WILLIAM SHARPE, Esq., to the Marquis of NORMANBY.

No. 26.

William Sharpe, Esq.  
to the Marquis of  
Normanby.  
27th August 1839.

MY LORD,

*Waterford*, 27th August 1839.

MYSELF, and others of my fellow-citizens, having come to the resolution of leaving this country for one of the colonies, are naturally desirous of obtaining the fullest information on the subject.

I have had some communication with Colonel Torrens, who has been kind enough to furnish us with the Commissioners' Report, and other matters connected with South Australia. But as some of our party have turned their attention to New Zealand, and we are not fully aware how it is circumstanced, we wish to know—is it a colony under the management of Government, or is it in the hands of a private company? In the former case, supposing a community was formed, such as we have now in contemplation, some with a moderate capital, and others with more limited means, would the Government give any encouragement in the way of a free passage, or reduced fares, to the middling class, to whom a high rate of passage would be a great barrier. On what terms could land be obtained, or are any settlements at present formed there?

We would most respectfully solicit the favour of your Lordship's attention at the earliest convenience.

I have, &amp;c.

WILLIAM SHARPE.

*The Marquis of Normanby,*  
&c. &c. &c.



## No. 27.

From J. STEPHEN, Esq., to W. SHARPE, Esq.

SIR,

*Downing Street, 7th September 1839.*

No. 27.

I AM directed by Lord John Russell to acknowledge the receipt of your letter of the 27th ultimo, and to acquaint you, in reply, that New Zealand is not a British Colony, and that no Company, or body of persons in this country, has received from Her Majesty's Government any sanction for establishing settlements there. The enclosed Minute of the Lords of the Treasury, communicated to the House of Commons during the last Session of Parliament, will best explain the state of this question.

J. Stephen, Esq. to  
W. Sharpe, Esq.  
7th September 1839.

*W. Sharpe, Esq.,  
&c. &c. &c.*

I have, &amp;c.

J. STEPHEN.

(No. 7.)

No. 28.

From Lord JOHN RUSSELL to Governor Sir GEORGE GIPPS.

SIR,

*Downing Street, 26th September 1839.*

No. 28.

ON referring to the correspondence which took place with Captain Hobson, before he left this country, I perceive that he urged on the attention of the Government the difficulties to which he might be exposed from the want of a sufficient force to uphold his authority. Lord Normanby, adverting to the difficulty of detaching any of Her Majesty's troops to New Zealand, could only refer Captain Hobson to such measures as he might be able to adopt, in consultation with you, in order to establish some system of internal protection.

Lord John Russell to  
Sir George Gipps.  
26th September 1839.

My attention has since been drawn to this subject by the large bodies of emigrants proceeding from this country to New Zealand, in connection with those persons styling themselves the New Zealand Land Company: and I am desirous to impress upon you how essential it will be for you to give Captain Hobson every practicable support without too greatly weakening your own force.

I have, &amp;c.

*Governor Sir George Gipps,  
&c. &c. &c.*

J. RUSSELL.

(No. 53.)

No. 29.

Extract of a Despatch from Lord JOHN RUSSELL to Governor Sir GEORGE GIPPS.

*Downing Street, 4th December 1839.*

No. 29.

I HAVE to inform you that since the date of the instructions addressed to you by the Marquis of Normanby, respecting New Zealand, a large body of persons have embarked for those islands.

I transmit to you, for your information, copies of a correspondence on this subject between this Department and Mr. George Frederick Young.

However unjustifiable may be the course taken by the "New Zealand Land Company," the persons who have embarked, being for the most part ignorant of the relations between this Country and the New Zealanders, and not aware of the distinction between New Zealand and any of Her Majesty's Possessions in Australia, are to be regarded with consideration and kindness.

At this distance from the scene of their destination, I find it impossible to fetter the discretion of Captain Hobson by any instructions from which he cannot depart without reference to this country.

I therefore authorize you to set Captain Hobson at liberty with respect to certain parts of his instructions which he may feel it impracticable, or highly inexpedient, to execute.

Lord John Russell to  
Sir George Gipps.  
4th December 1839.

Mr. Stephen to Mr.  
Young.

19th September 1839.

Mr. Young to Mr.  
Stephen.

19th September 1839.

Mr. Young to Lord  
John Russell.

23rd September 1839.

Mr. Vernon Smith  
to Mr. Young

27th September 1839.

Mr. Young to  
Mr. Vernon Smith.

28th September 1839.

Mr. Vernon Smith to  
Mr. Young.

5th October 1839.

Mr. Vernon Smith to  
Mr. Young.



No. 29.

Lord John Russell to  
Sir George Gipps.

4th December 1839.

31st October 1839.

Mr. Young to  
Mr. Vernon Smith.

7th November 1839.

Mr. Young to  
Lord John Russell.

In particular, with regard to the sale of land, it may be found impossible to realize the price of 12s. an acre, while that price is not demanded either at Sydney or in Western Australia, or in Van Diemen's Land. He may therefore reduce the price to 5s., until the higher price is the usual upset price in the Australian Settlements.

With respect to the administration of justice, still greater difficulty may occur. The correspondence on that subject with the "New Zealand Land Company" has ended by a withdrawal of their instructions, and an injunction to aid and assist Captain Hobson.

Under these circumstances, one of Captain Hobson's first duties will be to establish a tribunal for the trial of crimes, and the redress of civil injuries.

In reference to Captain Hobson's letter to Mr. Labouchere, of the      of August last, I perceive he speaks in the following terms with respect to the need of force to support his authority:—

"There are one or two subjects that have not been noticed, which I hope may still engage the attention of the Secretary of State. No allusion has been made to a military force, nor has any instruction been issued for the arming and equipping of militia. The presence of a few soldiers would check any disposition to revolt, and would enable me to forbid in a firmer tone those inhuman practices I have been ordered to restrain. The absence of such support, on the other hand, will encourage the disaffected to resist my authority, and may be the means of entailing on us, eventually, difficulties that I am unwilling to contemplate."

I have proposed to Lord Hill to send a force of 100 men to New Zealand.

The first difficulty stated by Lord Hill, namely, the want of any settlement in New Zealand in which the Queen's authority is established, will be obviated by my giving authority to you to take that step, if necessary, when you shall have received intelligence that Captain Hobson has obtained a grant or cession of territory from the New Zealand chiefs in the Northern Island, or that he has established the Queen's authority in the Southern Island.

The precautions stated as necessary by Lord Hill deserve careful attention. It appears to me that a frame-work of barracks, or block-house, would be quite necessary. Perhaps field-pieces might not be required, but cheveux-de-frize and intrenching tools should not be omitted; likewise a surgeon, and some person qualified to act for commissariat duties.

I am informed by Lord Minto that a sloop-of-war will constantly be at the service of Captain Hobson, and I trust the marines employed may be found useful in preparing the means of defence for the detachment.

With these cautions, I authorize you, if necessary, to detach 100 men to aid Captain Hobson, when he shall have assumed the title of Lieutenant-Governor of New Zealand.

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(Enclosure 1 in No. 29.)

J. STEPHEN, Esq., to G. F. YOUNG, Esq.

SIR,

*Dowling Street, September 19, 1839.*

Enclosure 1 in No. 29.

I AM directed by Lord John Russell to call your attention to a report which appeared in the "Morning Chronicle" of the 16th instant, of a public meeting, at which you are stated to have presided, on the occasion of the embarkation of various bodies of persons for New Zealand. At that meeting it is represented that, at your suggestion, the emigrants adopted and subscribed a document to the following effect:—"That all the persons and parties to the agreement should submit to be mustered and drilled in such fashion and at such times as should be deemed necessary to the security of all. That if any person committed an offence against the laws of England he should be liable to be punished in the same manner as if the offence had been committed in England. That a committee to conduct the government of the Colony be appointed with power to make rules and to appoint officers. That an umpire be appointed to preside in all criminal proceedings, and, assisted by seven assessors, to decide on the guilt or innocence of the party accused. That where the assessors (whose office would be similar to that of jurymen in this country) pronounced a party guilty, the umpire (whose office would be similar to that of a magistrate or judge) should state the amount of punishment to be inflicted. That in all civil proceedings the umpire should proceed alone. That the General Committee should have power to appoint five of its members to constitute a Committee of Appeal; whose decision, in all cases, should be regarded as final. That the Committee should have power to call out the armed inhabitants whenever the occasion required. And, finally, that it should have power to levy such rates and duties as may be necessary for the good government of that Colony."



Lord John Russell would be glad to be favoured with a copy of the document referred to, in order that it may be submitted to the law officers of the Crown, for their opinion how far persons acting under it will be justified by law.

G. F. Young, Esq.

I am, &c.

(Signed)

J. STEPHEN.

No. 29.

Lord John Russell to  
Sir George Gipps.

4th December 1839.

Enclosure 1 in No. 29.

(Enclosure 2 in No. 29.)

*Extract from the "Morning Chronicle" of September 16, 1839.*

NEW ZEALAND LAND COMPANY.

THE Directors of this Company, together with a vast number of persons interested in the colonization of New Zealand, made an excursion to Gravesend on Saturday last, for the purpose of inspecting the ships which, under the auspices of the Company, have been freighted with emigrants to that distant region, and for the purpose also of transacting other important and interesting business connected with the foundation of the new Colony. The "Mercury" steam-boat was employed for the occasion, and though one of the largest vessels engaged between London and Gravesend, her decks and cabins were completely thronged by the multitude of persons who had been invited, every one of whom had a deep interest in the object of the expedition. The "Mercury" herself was gaily dressed in the colours of all nations; the red-cross of England floating supreme above the rest. An ample awning covered the after-deck; an excellent band of music was stationed in the waist. She left her moorings at Fresh Wharf about one o'clock, and, contending the whole distance against adverse tide and wind, reached Gravesend at half-past three. The three ships it was intended to visit—the "Adelaide," the "Aurora," and the "Oriental"—were moored immediately below the town. As the steamer approached, conspicuous by her colours, the emigrants on board these ships crowded upon deck, and received the Directors with loud and hearty cheers. The object of the Directors upon this occasion was two-fold; first, to see that their instructions for the comfort of the emigrants upon the voyage had been rigidly carried into effect; and, secondly, as the sanction of the Government has been withheld from the undertaking—as the infant Colony has been left without the aid or protection of the Colonial Office—as no steps have been taken to secure the administration of English laws upon a soil which Englishmen are to inhabit—as all the hopes which up to the eleventh hour the Company had entertained of even a slight recognition from the Colonial Secretary had been disappointed—under these circumstances, the second object of the Directors was to obtain, if not from each of the emigrants, at least from the great body of them, a voluntary agreement to a charter or code of laws, laying down regulations for the maintenance of order, and establishing a machinery for the administration of law and the enforcement of justice.

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The first ship that the steamer ran alongside was the "Adelaide." She is a fine vessel, and has been admirably fitted up for the purpose for which she is employed. The arrangements for the comfort and convenience of the passengers of the lower as well as the higher class appear to be complete. The berths betwixt decks are commodious and well ventilated—the stores are of the best description—the dietary is ample. In short, no pains nor expense appear to have been spared to secure the health and comfort of the emigrants upon their long voyage. As soon as the Directors, accompanied by the cabin passengers and a host of visitors, had reached the poop, the labouring emigrants, with their wives and children, were summoned into the waist, when they were addressed by Mr. G. F. Young, the principal Director present, to the following effect:—"My friends, as one of the Directors of the New Zealand Land Company, I am anxious to address a few words to you upon a subject of great importance to you all. You will, I hope, be aware, from all you have seen as to the arrangements made for your passage to New Zealand, that the Directors of the Company have not lost sight of that which it is equally their duty and their pleasure to perform—have not failed to do every thing in their power to promote your comfort and welfare (cheers). But their views for your good are not bounded by providing for your departure from this country—they cast their eyes beyond the present, and contemplate what your position may be in that far distant land, where as yet no such provisions have been made as in every well-organized society are absolutely indispensable for the maintenance of order and the protection of property. The time cannot be far distant when the Government will do that which it is bound to do; but in the meantime it is necessary that some measures should be taken by which you may be protected from those aggressions upon social order which might arise if you were left wholly without laws and the means of obtaining justice. I am, therefore, about to propose to you to enter into a voluntary experiment, by which the ends I have indicated may be secured to you. I propose to you to sign the document which I now hold in my hand, and which, under the peculiar circumstances in which you are placed, I am sure you will find absolutely indispensable to your security and happiness." The honourable gentleman then read the document at length. It was in substance as follows:—

"That all the persons and parties to the agreement should submit to be mustered and drilled in such fashion and at such times as should be deemed necessary to the security of all; that if any person committed an offence against the laws of England he should be liable to be punished in the same manner as if the offence had been committed in England—that a committee to conduct the government of the Colony be appointed, with power to make rules, and to appoint officers—that an umpire be appointed to preside in all criminal proceedings; and, assisted by seven assessors, to decide on the guilt or innocence of the party accused—that



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where the assessors (whose office would be similar to that of jurymen in this country) pronounced a party guilty, the umpire (whose office would be similar to that of a magistrate or judge) should state the amount of punishment to be inflicted—that in all civil proceedings the umpire should proceed alone—that the general committee should have power to appoint five of its members to constitute a committee of appeal, whose decision in all cases should be regarded as final—that the committee should have power to call out the armed inhabitants whenever the occasion required; and, finally, that it should have power to levy such rates and duties as may be necessary for the good government of the Colony.” “Thus (continued the honourable gentleman), no person can be left in any case, civil or criminal, without the means of prompt redress. It is to be observed, however, that these rules are only intended to remain in force up to the time when British law shall be established under the authority of the British Government in that magnificent Colony, which you are to have the pride and happiness of being the first to found.”

This address, which was very attentively listened to, was received with a hearty cheer. Every man seemed to concur in the propriety of the proposed code of laws, and when it was placed upon the capstan for signature, there was not one who hesitated to put his name to it.

This part of the business being concluded, the steamer next ran down to the “Oriental,” who received her with a salute fired from half-a-dozen large guns upon deck. We observed that each of the ships were armed in a similar manner. There was also in each of them an abundance of small arms. The emigrants on board the “Oriental” are of a very superior class. They are chiefly young men and women of from twenty to thirty years of age—the women looking healthy and buxom—the men intelligent and resolute. Here, too, are a number of Highlanders from the estates of the Duke of Sutherland; they are a fine hardy set of fellows, and capable, no doubt, of fighting their way in any region of the world in which they may be placed. Great care appears to have been taken to secure their comfort. They are clad in one uniform dress—a blue jacket and cap and tartan trousers—every thing upon their backs appears to be perfectly new. The noble Duke’s agent, who has accompanied them from Scotland, remains with them until the expedition takes its final departure. Mr. G. F. Young, in going through the same ceremony on board the “Oriental” that had previously been gone through on board the “Adelaide,” addressed himself particularly to this body of men. “I perceive,” said he, “that there are many here from Scotland. Scotchmen are generally well educated and well informed in the history of their country. Those whom I am addressing will doubtless remember the solemn league and covenant which, in a former age, was entered into by their countrymen. I now propose to you, the descendants of that firm and inflexible race of men, to enter into another solemn league and covenant for the maintenance of social order in the new society of which you are to be the founders (cheers).” The code of laws was received on board the “Oriental,” and afterwards on board the “Aurora,” with the same expressions of approbation as on board the “Adelaide.” It was signed by every man present.

It may be here proper to mention, that independent of the three ships of which we have been speaking, there are two others which form part of the same expedition; namely, “the Duke of Roxburgh,” which will take in her passengers at Plymouth; and “the Bengal Merchant,” which will sail from Glasgow. The number of emigrants on board each of the ships is as follows:—“Oriental,” 138; “Adelaide,” 149; “Aurora,” 142; “Duke of Roxburgh,” 120; “Bengal Merchant,” 155; making a total of 704, exclusive of cabin-passengers, whose number on board the five ships amounts to 142.

There were present during the excursion, the Hon. Frederick Tollemache, Right Hon. Sir Alexander Johnston, Hon. William Petre, Hon. Henry Petre, Mr. Aglionby, M.P., Mr. Vincent Eyre, Mr. Commissioner Evans, the Rev. Mr. Hawtrey of Eton, the Rev. Mr. Saxton, Mr. Browne, late M.P. for Sligo, Mr. Few, Mr. Somes, the Deputy-Governor of the Company, Mr. G. F. Young, Mr. Edward Gibbon Wakefield, Mr. Alderman Pirie, Mr. T. A. Hankey, Captain Nairne, Mr. Arthur Willis, and Mr. Boulcott.

(Enclosure 3 in No. 29.)

*G. F. Young, Esq., to J. Stephen, Esq.*

SIR,

*Limehouse, September 19, 1839.*

Enclosure 3 in No. 29.

I lose not a moment in acknowledging the receipt of your letter of this day’s date, inviting, by direction of Lord John Russell, my attention to a report in the “Morning Chronicle,” of the 16th instant, of a public meeting at which I am stated to have presided, at which, at my suggestion (as is also stated), a document was adopted and subscribed by certain emigrants then about to depart for New Zealand, to an effect then particularized; and intimating that his Lordship “would be glad to be favoured with a copy of the document referred to, in order that it may be submitted to the law officers of the Crown, for their opinion how far persons acting under it will be justified by law.”

In reply, I have to request you will assure Lord John Russell, that, fully prepared to justify the part which, under very peculiar circumstances, I felt it my duty to take in the transaction in question, it would afford me pleasure unhesitatingly to communicate to his Lordship, the fullest information in my power, on the subject to which your letter refers; but as the measures adopted in relation to the document submitted to the emigrants, were taken in conjunction with other parties, I cannot, without their concurrence, feel warranted in furnishing a copy of that document for the purpose intimated in your letter.



I will, however, with as little delay as possible, bring the question under the consideration of my colleagues, who will, I am satisfied, be equally anxious with myself to comply with any wish that may be expressed by Lord John Russell, so far as such compliance may be consistent with prudence, and with the faithful and honourable discharge of the responsible duties devolved on them.

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Lord John Russell to  
Sir George Gipps.  
4th December 1839.

I have the honour to remain, &amp;c.

(Signed)

G. F. YOUNG.

Enclosure 3 in No. 29.

J. Stephen, Esq.  
&c. &c.

(Enclosure 4 in No. 29.)

G. F. Young, Esq., to Lord John Russell.

New Zealand Land Company's Office.

1, Adam Street, Adelphi, September 23, 1839.

MY LORD,

Enclosure 4 in No. 29.

On the 19th instant I had the honour of receiving, by direction of your Lordship, a letter addressed to me by Mr. Stephen of the Colonial Office, calling my attention to a report in the "Morning Chronicle," of the 16th instant, in which I am stated to have presided on the Saturday preceding, at a meeting of emigrants about to depart for New Zealand, and to have then submitted to them for their signature a document, of which, in the name of your Lordship, Mr. Stephen requested a copy for the purpose of the opinion of the law officers of the Crown being taken thereon. On the same evening I forwarded a reply, intimating that as I had, throughout the proceedings in question, acted in conjunction with other parties, I could not, without their concurrence, feel justified in compliance with the request.

Having now embraced the very earliest opportunity for consultation with the Directors of the "New Zealand Land Company," the colleagues to whom in my letter I referred, they have requested me to place myself entirely at your Lordship's disposal and to afford your Lordship every information or explanation that may be required relative to the proceedings of the Company throughout this transaction.

I take the liberty, therefore, of very respectfully intimating my perfect readiness to wait on your Lordship for this purpose, if it should be your Lordship's pleasure to honour me by an appointment, at any time most suitable to your Lordship's convenience.

I have, &amp;c.

(Signed)

G. F. YOUNG.

The Right Hon. Lord John Russell, M.P.,  
&c. &c. &c.

(Enclosure 5 in No. 29.)

R. Vernon Smith, Esq., to G. F. Young, Esq.

SIR,

Downing Street, September 27, 1839.

I am directed by Lord John Russell to acknowledge the receipt of your letter of the 23rd instant, and to acquaint you, in reply, that his Lordship avails himself of your offer of explanation, and will be glad if you will transmit the document mentioned in Mr. Stephen's letter to you of the 19th instant.

Enclosure 5 in No. 29.

When his Lordship shall have considered that document, you will be informed of the steps which it may then be proposed to take in the matter.

I am directed to express Lord John Russell's thanks for the readiness you show to give every explanation in your power.

I am, &amp;c.

(Signed)

R. VERNON SMITH.

G. F. Young, Esq.

(Enclosure 6 in No. 29.)

G. F. Young, Esq., to R. Vernon Smith, Esq.

SIR,

Limehouse, September 28, 1839.

I have the honour to acknowledge the receipt of your letter of yesterday's date, acquainting me, by direction of Lord John Russell, "that his Lordship avails himself of the offer of explanation," contained in my letter of the 23rd instant, "and will be glad if I will transmit the document mentioned in Mr. Stephen's letter of the 19th instant;" and further stating, that "when his Lordship shall have considered that document, I shall be informed of the steps which it may then be proposed to take in the matter."

Enclosure 6 in No. 29.

In reply, I would first assure his Lordship, that I shall regret extremely if any hesitation to comply promptly with his wishes, should tend to cast a doubt on the sincerity of the expression of perfect readiness, which I have already conveyed to his Lordship, to afford the most frank and unreserved explanation, on every part of the transactions which have given rise to our present correspondence. But I must be permitted to remark, that I am quite at a loss to reconcile your request for the transmission to his Lordship, of a document on which



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explanation had been tendered and accepted, accompanied by the mere promise of a subsequent intimation "of the steps which it may then be proposed to take in the matter," with the expression that his Lordship "avails himself of an offer of explanation," which was expressly limited to a personal communication, and obviously intended to be preliminary to a delivery of the document itself. I am in consequence reluctantly compelled to lengthen a correspondence which I should have rejoiced if I could consistently have terminated, by an immediate acquiescence in the request in your letter.

Had I been permitted to have the advantage of an interview with Lord John Russell, I should certainly, after such explanatory statement as I consider indispensable to a right understanding of the document in question, not have felt apology requisite for respectfully inquiring, previous to placing it in his Lordship's hands, what were the intentions with which it was required, and what were the purposes for which it was to be used:—since I must greatly have mistaken his Lordship's character, if I should either have incurred suspicion, or hazarded displeasure, by a precaution so obviously suggested by honourable consideration towards those who have signed the document, strengthened by adherence to one of those sound constitutional privileges, of which his Lordship has always been the zealous defender, that of declining to become a party to any possible self-crimination.

In the employment of this term, I must entreat not to be misunderstood. I have already said, and I unequivocally repeat, that I am fully prepared to justify and defend every step that has been adopted (under circumstances most peculiar) in reference to this matter. But I am willing to admit, that it is extremely possible that in some parts of the particular measure now brought into question, a course may have been taken not strictly accordant with a technical interpretation of law. The mention in the letter of Mr. Stephen of a reference of the law officers of the Crown, is in itself sufficient to induce caution; and I trust, therefore, that in referring to a possible crimination of themselves by the parties to the document in question, I shall not be supposed to convey the remotest admission that more has been done than was under actual circumstances the moral duty of those who were concerned in the transaction.

Returning to the immediate subject of your letter, I am now compelled to inquire whether the document is required for the purpose, through legal advice, of perfecting any arrangements which may, in strict conformity with the forms of law, be made available to the security and happiness of the British emigrants now on their way, and about to proceed to New Zealand; in furtherance of which object I am warranted in respectfully tendering any information and assistance in the power of the Directors of the New Zealand Land Company to offer:—and whether if the document be transmitted, as requested, to Lord John Russell, the parties by whom it has been signed, as well as those concerned in its preparation and suggestion, may feel assured that they will not, in consequence of the part they may have taken therein, be exposed to any inconvenience or inquiry at the instance of Her Majesty's Government.

I shall wait the favour of a reply to this inquiry, on receipt of which I will be prepared immediately to communicate a decisive answer to your former letter.

R. Vernon Smith, Esq.  
&c. &c.

I have, &c.  
(Signed) G. F. YOUNG.

(Enclosure 7 in No. 29.)

R. Vernon Smith, Esq., to G. F. Young, Esq.

SIR,

Downing Street, October 5, 1839.

Enclosure 7 in No. 29.

Having laid before Lord John Russell your letter of the 28th ultimo, I am directed to acquaint you in reply, that the object for which his Lordship desired to see the document to which you refer is that of warning any of her Majesty's subjects, who may be proposing to act under it, of the risk which they would incur by so acting, if, in the result of his Lordship's proposed communication to the law officers of the Crown, it should appear that any such risk would really be incurred: his Lordship's sole view having been to save the emigrants to New Zealand from legal penalties, should they act in ignorance of the law.

I am, however, to add, that Lord John Russell has it not in his power to bind Her Majesty's Government by any engagement as to what may be done in respect of a document, and of proceedings, of which he at present possesses none but the most general and imperfect information.

G. F. Young, Esq.

I am, &c.  
(Signed) R. VERNON SMITH.

(Enclosure 8 in No. 29.)

R. Vernon Smith, Esq., to G. F. Young, Esq.

SIR,

Downing Street, October 31, 1839.

Enclosure 8 in No. 29.

I am directed by Lord John Russell to call your attention to a letter which, at his Lordship's desire, was addressed to you on the 19th ultimo, requesting you to favour his Lordship with a copy of a document which, according to a report inserted in the "Morning Chronicle," of the 16th of that month, was adopted and subscribed by various emigrants about to embark for New Zealand, at a public meeting, where it was stated that you presided.



You were informed that it was Lord John Russell's intention to refer the document to the law officers of the Crown, for their opinion, how far persons acting under it would be justified by law.

In your letter to Lord John Russell of the 23rd ultimo, you stated that the Directors of the New Zealand Company had instructed you to afford to his Lordship every information or explanation he might require relative to the proceedings of the Company throughout the transaction referred to in Mr. Stephen's letter of the 19th ultimo; and you intimated your readiness to attend at this Office for that purpose.

In reply to your letter, Lord John Russell directed me, on the 27th ultimo, to acquaint you that he availed himself of your offer of explanation, and that he would be glad if you would transmit the document to him, after the consideration of which you would be informed of the steps which it might then be proposed to take in the matter.

On the 28th ultimo, in reply to my letter of the preceding day, you asked whether the document was required for the purpose, through legal advice, of perfecting any new arrangements which might, in strict conformity with the forms of law, be made available to the security and happiness of the British emigrants then on their way, and about to proceed to New Zealand, in furtherance of which object you were warranted in tendering any information and assistance in the power of the Directors to offer, and whether, if the document should be transmitted to Lord John Russell, the parties by whom it had been signed, as well as those concerned in its preparation and suggestion, might feel assured that they would not, in consequence of the part they might have taken therein, be exposed to any inconvenience or inquiry at the instance of Her Majesty's Government.

You were informed in my letter of the 5th instant, that the object for which Lord John Russell desired to see the document in question, was that of warning any of Her Majesty's subjects who purposed to act under it, of the risk which they would incur by so acting, if, in the result of his Lordship's proposed communication to the law officers of the Crown, it should appear that any such risk would really be incurred; his sole view being to save the emigrants from legal penalties, should they act in ignorance of the law. I was directed to add, that Lord John Russell had it not in his power to bind Her Majesty's Government by any engagement as to what might be done in respect of a document, and of proceedings, of which he then possessed only the most general and imperfect information.

Lord John Russell has not been favoured with a reply to that letter; and as a copy of the document in question is still withheld, I am directed by his Lordship to acquaint you, that if it should come to his knowledge that the New Zealand Land Company have been acting in a manner contrary to law, he will not consider himself precluded by any thing that has passed, from directing legal proceedings to be instituted against that body, or against any member of it.

I am, &c.

G. F. Young, Esq.

(Signed)

R. VERNON SMITH.

(Enclosure 9 in No. 29.)

G. F. Young, Esq., to R. Vernon Smith, Esq.

SIR,

Limehouse, November 7, 1839.

I have the honour to acknowledge the receipt of your letter, dated October 31st, but which was not delivered at my residence till the 4th instant.

Considering myself placed, by that letter, in a position, in which it becomes my duty to give to Lord John Russell those explanations which, in accordance with your letter of the 27th September, I expected the opportunity of tendering personally, I feel that those explanations will be more satisfactorily conveyed by direct communication to his Lordship, than by continuing the correspondence through the usual official medium. I have therefore to request you will do me the favour to lay before Lord John Russell the accompanying letter.

I have further to request, you will oblige me by conveying to his Lordship my assurance that in the omission to reply to your letter of the 5th instant, nothing could have been more remote from my intention, than the manifestation of any failure in that respect, which I entertain towards his Lordship. But the tenor of that letter appearing to me to close the correspondence, I conceived reply to be unnecessary, which must be my apology for the omission.

I have &c.

R. Vernon Smith, Esq.  
&c. &c.

(Signed)

G. F. YOUNG.

(Enclosure 10 in No. 29.)

G. F. Young, Esq., to Lord John Russell.

MY LORD,

Limehouse, November 7, 1839.

I venture, in all respect, but without apology, to address myself directly to your Lordship on the subject on which I have recently been drawn into correspondence with the Colonial

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Enclosure 10 in No. 29.



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Lord John Russell to  
Sir George Gipps.

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Office, because, feeling that I have had some reason to complain of having been individually selected by a public department for communication on questions of an embarrassing and responsible character, with which I was only connected as one of the directors of a public company, not holding in that company any presiding office, I feel that I may, with the less impropriety, depart from the usual routine of official correspondence, and make my personal appeal to your Lordship, as the head of the Colonial Department.

In taking this course, it is necessary that I should in the outset unequivocally explain, that for any statements or remarks which in this communication I may be impelled by a sense of duty to make, I take on myself the entire and undivided responsibility. My colleagues in the direction of the New Zealand Land Company are not even acquainted with the contents of the letter which Mr. Vernon Smith, by direction of your Lordship, has addressed to me, under date of the 31st ultimo. If, therefore, in the frankness with which, when I consider my own conduct unfairly impugned, I must ever feel justified in urging my vindication, any terms should be employed to which exception may be taken; and still more, if in the candid expression of the sentiments of surprise and disappointment with which, in common I believe with all to whom it is known, I have been compelled to regard the conduct of Her Majesty's Government in relation to the colonization of New Zealand, and especially to the proceedings of the New Zealand Land Company, any supposed failure in respect should be discernable; while I would plead in extenuation that the error is unintentional, I would entreat that the blame may, at all events, be alone attached to me, as to me alone will it be justly attributable.

Permit me, now, my Lord, to invite your attention to the immediate subject that has led to these remarks. The several letters addressed to me by Mr. Stephen, on the 19th September, and by Mr. Vernon Smith, on the 27th of that month, and the 5th and 31st ultimo, appear to have been written by direction of your Lordship. I would fain hope that the direction was general, for I can scarcely believe that the harsh, disingenuous, and inconsistent tenor of those letters can really have received your Lordship's sanction. Originally requested to transmit a document to which it was alleged I was a party, for the avowed purpose of its being submitted for the opinion of the law officers of the Crown, I naturally demurred to an acquiescence which might possibly, at least, have entailed inconvenience on those to whom I was, in an especial manner, bound to afford protection. I offered personal explanation in my letter of the 23rd September. In the reply of the 27th of that month I was informed that your Lordship "availed yourself of my offer," and "would be glad if I would transmit the document to you." Was this availing yourself of my offer, my Lord? Was it consistent? Was it candid? Suppose the document had been transmitted, and that it had been found that any of the parties concerned in it had subjected themselves to legal penalties, what was intended to be the course pursued? Let the last letter of Mr. Vernon Smith give the reply. After expressly declaring that "the sole view of your Lordship was to save the emigrants from legal penalties, should they act in ignorance of the law," in the very next paragraph, in apparent forgetfulness of his previously expressed limitation to one object, he considers it justifiable to hold out the threat, (harsh in intention, but impotent, as I am persuaded it will prove, in execution,) that if it should come to your Lordship's knowledge that, in this matter, any member of the New Zealand Land Company should have been acting in a manner contrary to law, "legal proceedings should be instituted" against him. And thus, my Lord, it was not deemed unworthy by a great State department to ask a member of a Public Company, who was supposed to have acted illegally, to furnish the means for his own injury, and the betrayal of those who were alleged to have acted at his instigation: to disguise the intention under an acceptance in words, of an offer of explanation, pursuing steadily the design of implication, but evading cautiously the opportunity for justification; and, finally, to close, by an ungenerous threat, a correspondence marked by inconsistency and a total absence of candour. Can I avoid asking, my Lord, to what sinister influence it can be owing, that your high and noble name should be permitted to be associated with such a course of proceeding?

But I must be permitted, my Lord, in pursuing further this question, to offer to your Lordship, in writing, some portion of that explanation which, had I been allowed that advantage, would have been much more satisfactorily given in a personal interview. The day cannot be distant when the conduct of the honourable and independent gentlemen composing the direction of the New Zealand Land Company, will be effectually vindicated, and the devotion and disinterestedness with which they have discharged duties of no common labour and responsibility, be publicly acknowledged. In the mean time, it is important to them, and, I believe, in no slight degree, to the public interests, that your Lordship should be disabused, as far as possible, of those unfavourable impressions which appear to prevail in Government departments, in reference to the Company, even to the extent of producing the inexplicable and puerile determination not to acknowledge its existence as a company, although such existence is a fact as notorious as that of the Colonial Office itself.

The recent proceedings of Her Majesty's Government, in reference to New Zealand, seem to imply a doubt whether those islands constitute at present a dependency of the British Crown. Possessed, long ago, of the most irrefragable evidence that the sovereignty of Great Britain had long been asserted and acted on in these islands, the Directors of the New Zealand Land Company, contemplating the establishment therein of an extensive settlement, dispatched, early in May last, an expedition, for the purpose of making the requisite arrangements for the security and comfort of emigrants who might thereafter be sent to those countries under their auspices. In July a second vessel was dispatched for the same destination, partly to perfect the contemplated arrangements, and partly to provide against the ill effects of any possible



accident to the first expedition. In September it was intended that the first fleet containing emigrants should sail, and the Directors, in disregard of the immediate pecuniary interests of the Shareholders, and in a comprehensive view of the duties involved in the office they had undertaken, having determined on a liberal devotion of the ample funds placed at their disposal, for the purpose of affording full scope for the development of the energies of those who might embark for that distant land, and of contributing, at the same time, to their physical, moral, and social welfare, did expend large sums in making provision for the physical and social wants of a new community, and in guarding against those contingencies to which it might be exposed. But they would have been ill-fitted for their office, if it had escaped their observation that an absolute necessity would arise, immediately on the location of a large body of individuals in those distant regions, for some political arrangements emanating from, and sanctioned by, the Government, whereby protection, law, and order might be secured to them. This necessity was evidently the more urgent, from the frightful extent of demoralization known to prevail among the present European inhabitants of New Zealand, and the lawless and unprincipled character of adventurers continually flocking to those fertile islands from various parts of New Holland. To provide for this deficiency, communications were opened with Her Majesty's Government, and, on the 13th June last, the Earl of Durham, the Governor of the Company, accompanied by the Deputy-Governor, and ten other Directors, were admitted to a conference with the Marquis of Normanby, your Lordship's predecessor in the office you now hold. At this interview, in reply to a question from Lord Normanby, Lord Durham emphatically disclaimed all desire to obtain for the Company, at the hands of Her Majesty's Government, the slightest monopoly, privilege, or advantage whatever, employing in illustration, as far as the trading interests of the Shareholders were concerned, the very words of the French economist, "Laissez faire." But proportionate to the disregard avowed for the intervention of the Government in aid of the pecuniary interests of the Proprietary, was the anxiety expressed by Lord Durham and the Directors, that the advantages and restrictions of British law should be continued to intending emigrants in the land of their adoption, and that the most prompt measures should be taken for securing to them the benefits of protection, law, and order, from the very hour of their arrival. I will not detain your Lordship by any endeavour to detail the precise reply received to this manly, honest, and disinterested appeal; but I cannot doubt that the records of your Lordship's present office will confirm the foundation afforded by the spirit of that reply, for the impression under which I believe every member of the Direction quitted the Colonial Office. That impression as left on my own mind was simply, that while Lord Normanby cautiously abstained from committing Her Majesty's Government by any pledge to the New Zealand Land Company as such, he unequivocally expressed his satisfaction that the colonization of New Zealand had fallen, as he was pleased to express it, into such respectable hands, and intimated his perfect conviction of the propriety of the appeal made by Lord Durham, and the intention of the Government to make immediate provision for the important objects sought by the Directors. Confiding in the expectations warranted by this interview, the Company proceeded in its arrangements, and early in September nearly eight hundred individuals were ready to embark for New Zealand, in ships hired by the Company for their reception; and thus I am brought to the more immediate subject of my present correspondence.

In the engagement and equipment of these ships, no reasonable expense (as was indeed its duty) had been spared by the Company; not only was every precaution taken to secure health and comfort during the voyage, but on board each vessel were shipped houses for the accommodation of the women and children embarked in each, to be used on landing, if other shelter should not have been provided; and six months' provisions and stores, to guard against the results of improvidence or casualty. The general arrangements for the settlement had been previously prepared. The Company having thus performed its duty, it became of the last importance to ascertain with precision, previous to the sailing of the expedition, what steps had been taken by the Government, in redemption of the virtual pledge given by Lord Normanby, for the establishment of law and preservation of order, on the arrival of the settlers. On this subject the Directors had many fears, and I must be permitted candidly to ask your Lordship whether it was possible their apprehensions should be dispelled by receiving in reply to their urgent inquiries a cold and formal reference to the published Minute of Treasury on the subject, laid before Parliament shortly before the conclusion of the last session? I claim not on behalf of the Company any cordiality from Her Majesty's Government, I stop not to comment on the inexplicable discouragement lately exhibited to its objects; but I say respectfully, but unhesitatingly, that such a reply, given under such circumstances to such an inquiry, was uncandid, unfair, and impolitic. It conveyed literally no information on the question. If more had been done than was explained, it was unjustifiable that the information should have been withheld, and the Directors thus have been entrapped into the adoption of measures which under fuller information they would have seen to be unnecessary. If nothing shall prove to have been effected beyond the poor and meagre steps detailed in the "Minute," then indeed will all that was done by the Company be triumphantly vindicated. The Directors were led to the belief that eight hundred individuals, to whose voluntary expatriation they had been in some degree instrumental, and for whose welfare they were in some degree responsible, were about to be abandoned in the remotest part of the world, by the country which had given them birth, and the Government from which, as they owed it allegiance, they had indisputable right to claim protection. Can it be doubted, my Lord, that if under such circumstances the Directors had hesitated in applying at any hazard the best remedy in their power to this crying injustice and threatening danger, their timidity would have deserved the severest reprobation? Placed, however, in this dilemma, they did not hesitate. A

No. 29.

Lord John Russell to  
Sir George Gipps.

4th December 1839.

Enclosure 10 in No. 29.



No. 29.

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Enclosure 10 in No. 29.

voluntary agreement to continue to live under British law, and to associate for mutual protection, was the most practicable remedy that suggested itself, and the adoption of this principle was the cause that has led to this long intrusion on your Lordship's attention.

It only remains that I should briefly explain the precise nature of the course taken in this matter. I assure your Lordship most solemnly, that in submitting to the emigrants the document that was signed by them, no complaint was insinuated to them (though I must frankly confess it was strongly felt by me), of neglect on the part of Her Majesty's Government. On the contrary, it was explained to them that it had been found impracticable to complete the arrangements in sufficient time, but that it was the hope of the Directors that such arrangements would soon be perfected, and put in operation through the legitimate channels. Based on this declaration, followed the explicit statement, that the agreement suggested to them was provisional only, and that its obligation would cease from the moment in which provision should be made for the maintenance of law and order by regular authority of the State. And, finally, I believe it will be found, when the time shall arrive at which the document with all its attendant circumstances can be safely submitted to a candid and impartial investigation, that objectionable as, on general principles, must be any approach to the assumption by individuals, of functions strictly pertaining only to the sovereign power of a community; yet that in this instance the measures adopted were only such as were rendered indispensable by a hard necessity, and that by no persons could that necessity have been more sincerely deplored than by the Directors themselves.

I have thus, my Lord, though with a prolixity which I much fear will be deemed tedious, but which I have felt I could not consistently avoid, endeavoured to trace the circumstances which have compelled me reluctantly to withhold the document I have been requested to transmit to you. In conclusion, I am induced by reference to the extraordinary threat conveyed in Mr. Vernon Smith's letter against the Directors of the New Zealand Land Company, with much respect, to remonstrate with your Lordship, on the impolicy of treating with such undeserved and inexplicable harshness a Company, of which, from intimate knowledge of its designs and conduct, I freely own that I consider it an honour to be an humble but zealous member. For myself, it is in no spirit of personal apprehension that I deprecate this unseemly threat. If harassed by a prosecution, unjustifiable as it would be unprecedented, I feel a strong confidence that public sympathy would protect, and an undoubting conviction that conscious rectitude would in any event sustain me. But the hostility of the Government to the Company, though I am persuaded it will in its effects recoil on the heads of those by whom it is so unaccountably stimulated, must be admitted to be discouraging, and throws impediments and annoyances in the way of those who, neither aiming at wealth, or patronage, or power, are engaged in a task of no ordinary difficulty, although prosecuting it with an unexampled success.

Pardon me, my Lord, if I venture to implore you to judge the Company more candidly and more justly. If you will yourself examine the whole question, I feel confident that the suspicions that must have been most unworthily infused into your Lordship's mind will vanish. It has long been seen that New Zealand must be colonized. The necessity has at length become urgent and imperative. Unless done either by the Government or by a Company, shoals of profligate and reckless adventurers would rapidly monopolize that magnificent country,—exterminate the natives, and constitute themselves a community of pirates and marauders. The projectors of the New Zealand Land Company had no desire to undertake the task as an associated trading body. It was at the direct instigation of Her Majesty's Government, as your Lordship will find on inquiry, that the Company was formed. The motives and conduct of the Directors since its formation I have endeavoured to explain, and this explanation I am satisfied the same investigation will confirm. But those objects and that conduct have now become matter of deep public interest, and if the Company continue to be kept by the Government in the anomalous position in which they are at present placed, though public opinion will ultimately decide justly between the parties, public interests may suffer severely from the exercise of estrangement, where all tends to show that sympathy and support are alike due and essential. Already are indications afforded of much political embarrassment, which I believe to be aggravated by the distance at which the Company is studiously kept. I believe that the British Government, in the assertion of its claim to sovereignty over the Islands of New Zealand, is placing itself, from ignorance of facts, in a false position, of which rival powers are plainly indicating their readiness to take advantage. By the harshness exhibited towards the Company, the feelings of your Lordship's friends are alienated, and those of your opponents are embittered; and thus evils, administrative as well as political, are entailed on your Government. But I must draw to a conclusion. Pause, my Lord, I respectfully entreat you, in the course into which you have been drawn; dare to emancipate yourself from the trammels of a system, familiar to the Office over which you preside, but long odious to the whole nation. Judge the Company with the firm and manly discrimination which is natural to you, and if you then find it deserving of the treatment you at present unhappily countenance, none will be less disposed to deprecate your censure or your opposition than,

I have, &amp;c.

(Signed)

G. F. YOUNG.

*The Right Hon. Lord John Russell, M.P.*

&amp;c. &amp;c. &amp;c.



No. 30.

From JOHN WARD, Esq., to Lord JOHN RUSSELL.

*New Zealand Land Company's Office,  
1, Adam Street, Adelphi,  
23rd November 1839.*

MY LORD,

DOUBTS having arisen in consequence of the letter transmitted, by order of your Lordship, to Mr. George Frederick Young, dated the 19th September last, as to the legality of acts which might be performed under an agreement entered into by the emigrants, who have proceeded to New Zealand, under the auspices of the New Zealand Land Company; and the Directors of the Company having been recently advised by eminent counsel, that those doubts were well founded,—they have commanded me to transmit to your Lordship a copy of that agreement, together with a copy of a despatch, addressed to their principal agent in New Zealand, by which your Lordship will perceive that they have not lost a day in acting in accordance with the legal opinion which they obtained only on the date of the letter to their agent.

The Directors trust that the course they have pursued will meet your Lordship's approbation.

*The Right Hon. Lord John Russell,  
&c. &c. &c.*

I have, &c.,  
(Signed) JOHN WARD,  
Secretary.

No. 30.

John Ward, Esq. to  
Lord John Russell.  
23rd November 1839

(Copy.)

(Enclosure 1 in No. 30.)

We, the undersigned, intending to inhabit the New Zealand Land Company's first and principal settlement, with the view to provide for the peace and order thereof, do hereby agree amongst ourselves, and pledge our honour to submit ourselves to the following provisional Regulations, and to enforce them on each other, that is to say,—

Enclosure 1 in No. 30.

1st. That all the persons, parties to this agreement, shall submit themselves to be mustered and drilled under the direction of persons to be appointed as hereinafter mentioned.

2nd. That in case any of the persons, parties to this agreement, shall commit any offence against the law of England, he shall be liable to be punished in the same manner as if the offence had been committed in England.

3rd. That in case any dispute shall arise between any of the persons, parties to this agreement, such disputes shall be decided in the manner hereinafter mentioned.

4th. That a Committee shall be formed of the following persons:—

Colonel William Wakefield, *the Company's Principal Agent.*

George Samuel Evans, *Barrister at Law.*

Honourable Henry William Petre.

Dudley Sinclair, Esq.

Francis Alexander Molesworth, Esq.

Captain Edward Daniel.

Lieut. William Mein Smith, *the Company's Surveyor-General.*

Richard Davies Hanson, Esq.

Edward Betts Hopper, Esq.

George Duppa, Esq.

George Hunter, Esq.

Henry Moreing, Esq.

Henry Saint Hill, Esq.

Thomas Partridge, Esq.

Major David Stark Durie.

That Colonel William Wakefield shall be the first President thereof. That in all cases the Company's Principal Agent shall be the President. That the Company shall have the power to appoint five additional Members. That the Committee shall have the power to add five additional Members. That the number of Members shall not exceed twenty-five. That five Members shall be a quorum for all purposes. That Samuel Revans, Esq. shall be the first Secretary to the Committee.

5th. That the Committee shall have the power to make Rules for their meetings, and to appoint the necessary Officers, and that a meeting of the Committee shall take place within three days after five members shall have arrived in the Settlement.

6th. That the Committee shall have power to appoint a person who shall be called an Umpire, and that George Samuel Evans, Esq. Barrister at Law, shall be the first umpire. That the umpire shall preside in all criminal proceedings, and, assisted by seven assessors, shall decide on the guilt or innocence of the party accused.

7th. That if the party be declared guilty, the umpire shall state the punishment to be inflicted; provided, that without the special approval of the Committee, no imprisonment to be stated by the umpire shall exceed three months, and no fine to be so stated shall exceed £10.



No. 30.

John Ward, Esq. to  
Lord John Russell.

23rd November 1839.

Enclosure 1 in No. 30.

8th. That in all civil proceedings, the umpire shall preside; that each party may choose an arbitrator, who shall sit with the umpire, and the award of the majority shall bind the parties, and the umpire shall have all necessary powers of compelling the attendance of witnesses, and the production of books and papers, and of examining the witnesses.

9th. That the Committee shall have power to appoint five of their members, who shall be called a Committee of Appeal, and to such Committee an appeal may be made in all cases, civil and criminal, and the decision of such Committee shall be final.

10th. That the Committee and the umpire shall be authorized to make such rules and orders for their government in the execution of their duties as they shall think fit.

11th. That the Committee may direct in what manner the assessors shall be chosen.

12th. That the Committee shall direct the calling out of the armed inhabitants, and shall make rules and regulations for the government of the same.

13th. That the Company's Principal Agent shall have the highest authority in directing the armed inhabitants when called out, and that the Committee shall have the power to appoint such other persons as they think fit to assist in such direction.

14th. That the Committee shall have power to make regulations for preserving the peace of the Settlement, and shall have power to levy such rates and duties as they shall think necessary to defray all expenses attending the management of the affairs of the colony, and the administration of justice.

In witness whereof we have hereunto set our hands this fourteenth day of September,  
One thousand eight hundred and thirty-nine.

(Signed by certain Persons.)

We, the undersigned Directors of the New Zealand Land Company, do hereby (so far as we lawfully may) approve of the Articles of Agreement above written.

(Signed by certain Directors.)

(Copy.)

(Enclosure 2 in No. 30.)

To Colonel William WAKEFIELD, Principal Agent, New Zealand.

*New Zealand Land Company's Office,*

1, Adam Street, Adelphi, 14th November 1839.

SIR,

Enclosure 2 in No. 30.

This despatch will be confided to the Captain of the "Bolton," a very fine vessel, which the Directors are about to dispatch for New Zealand, and which they have chartered on the same terms and conditions as the "Aurora," "Oriental," "Duke of Roxburgh," "Adelaide," and "Bengal Merchant," as you will perceive by the copy of the charter-party enclosed.

The Surgeon Superintendent is directed to deliver to you, on arrival, an exact list of the abin passengers, and of the labouring emigrants, on board the "Bolton," at the time of her arrival. The latter class consists almost wholly of husbandmen and their families, who have been selected with great care. You will find the proportion of children somewhat larger than in other vessels; but many of these are old enough to be immediately useful, and to earn their own living.

Among the passengers by the "Bolton" are the Rev. Mr. Churton (with his large family), to whom the Directors have granted a free passage, in pursuance of a resolution of the Board, of which I send you a copy, in order that it may appear in the "New Zealand Gazette," for the information of the settlers.

The Directors recommend Mr. Churton and his family to your good offices. You will see, by the enclosed resolution, that they are desirous of affording facilities to the settlement of ministers of religion in the colony, without giving a preference to any denomination of Christians. Without departing from the principle of equal aid to all denominations under equal circumstances, they feel in the present instance that they owe an especial obligation on behalf of all sects in the colony to the Society for the Propagation of the Gospel in Foreign Parts, which, by publicly sanctioning the colony, affords it powerful and most valuable aid in time of need. Mr. Churton may be considered as the colonial representative of that venerable corporation, and is as such entitled to the peculiar attention of all who wish well to this important public undertaking.

The Directors are also much indebted to the Society for Promoting Christian Knowledge, for a very liberal donation of books, which they have placed at the disposal of Mr. Churton, for the benefit of the colonists.

The "Bengal Merchant" sailed from the Clyde on the 31st ultimo, with 37 cabin and 109 steerage passengers. Amongst these is the Rev. Mr. M'Farlane, who goes to reside at the Company's principal settlement as the representative of the kirk of Scotland, by whom he has been appointed, with a liberal salary. The Directors wish that, as in the case of Mr. Churton, you should afford him all the assistance in your power, so that he may, with as little delay as possible, assume the duties of his ministry. This is due, not less to the General Assembly of the kirk of Scotland, which, like the English Society for Propagating the Gospel, affords powerful aid to the settlement, while the Colonial Office displays towards it nothing but hostility, than to the "First Scotch Colony," who recently departed from the Clyde, and who will not fail to appreciate every attention that you may be able to show to their minister.

The Directors doubt not that it will be very gratifying to the settlers generally to learn that the sympathy of their countrymen at home is not withheld from them. I send herewith some satisfactory evidence on this head in the shape of reports of a public dinner at Glasgow, and



a public meeting held in the Mansion House of Dublin. I would particularly draw your attention to the speeches of Dr. M'Leod, Mr. Sheriff Alison, and the Rev. Dr. Dickinson, the last of whom represented the Archbishop of Dublin, whose attendance was alone prevented by etiquette, in consequence of his being a Lord Justice, in the absence of the Lord Lieutenant. You will observe, that persons of the most eminent station and character have consented to act as Committees of Agency for this Company in Scotland and Ireland. The Directors would suggest the expediency of having the accompanying reports reprinted in the "New Zealand Gazette."

I have now, by order of the Directors, to draw your attention to matters of very great importance to the settlement, and which are a source of no less embarrassment to themselves.

Since the departure of the gentlemen composing the Committee, to whom the bulk of the settlers agreed to submit, in all things needful to peace and order, until the establishment of a regular government, the Directors have learned that very competent judges of the law are of opinion, that any act of coercion or authority done under the Agreement would be illegal. I enclose a copy of Serjeant Wilde's opinion on the subject, which the Directors obtained only this morning. It appears, that the Agreement by itself is of no force nor effect, neither illegal nor legal, but mere waste paper: and that it will ever remain so, until *acted upon*. But on the other hand, any act performed under the Agreement would be without warrant of law, and the parties performing it would therefore be subject either to prosecution or civil action, according to the nature of the act. For example, the settlers agreed, that if any of them committed a breach of the law of England, he should be punished in the same way as if the offence had been committed in England; now, if one of the parties to the Agreement should commit a murder, or an assault, and should be executed or imprisoned accordingly, all the parties to the Agreement would be liable to a prosecution for murder, or to an action for false imprisonment. They would also, perhaps, be liable to prosecution for usurping the functions of the Crown and Parliament, by setting up a jurisdiction, whether in civil or criminal matters.

I am now stating the case in its very worst point of view, and assuming the correctness of the most unfavourable of the legal opinions which the Directors have obtained. According to these opinions, whether such acts, under such an Agreement, were done in a British dependency or in a desert island unknown to the Crown of England, or in a foreign country, having an independent government and laws of its own, they would, being done on British subjects by British subjects, be equally illegal, and would equally subject the parties performing them to the same penalties as if those acts had been performed in England.

Such, the Directors are advised, is the strict letter of the law; and they have no reason to expect, from the feeling which the Colonial Office has recently displayed towards their enterprise, that the strict letter of the law would not be enforced in this case. Several cases have indeed occurred in which a body of Englishmen suffering in a distant land, from the want of regular authority, have established some sort of tribunal for the protection of life and property, without incurring the displeasure of the Government at home, or being subjected to any penalty or inconvenience for what was termed an act of self-preservation. The case of Honduras is the most remarkable. Even at the Bay of Islands in New Zealand, a voluntary association for government has existed for at least two years without being denounced or impeded in its operation by the Home authorities. In that case, as in this, the settlers did not act for themselves, until after repeated applications to the Home authorities for the establishment of British law. But this case differs from that in a very important particular. The letter from Lord John Russell to Mr. Young, of which I enclose a copy, shews that in this case, formal warning has been given by the Home Government of its intention to enforce the strict letter of the law.

This warning the Directors seize the first opportunity of conveying to you, in order that you may communicate it without delay to the members of the committee. And they further direct me to express to you and to all the other servants of the company, their positive order that you will all abstain from taking any part whatever in any act of coercion or authority under the agreement. With respect to the other settlers, the Directors do not possess, and cannot pretend to exercise any control over them; but they desire that you will communicate to every member of the committee their earnest advice and anxious hope that the agreement may not be put in force by anybody. Whatever may be the consequence, they can have no hesitation in recommending implicit obedience to that which, they are now informed, is the law of the land. The members of the committee will indeed perceive, that the agreement itself, viewed as a moral engagement, precludes the parties to it from committing any breach of that law, which it is the declared object of the agreement to uphold.

The immediate consequence of complete obedience to the law, taken in conjunction with the neglect of the Colonial Department to provide any legal means of preserving order in the Settlement, will be a state of things like to that which has long subsisted among the British settlers at the Bay of Islands, where the resident officer of the Crown has been described as resembling "a ship of war without guns." He has had a law to administer, but no means whatever of enforcing it. In the company's settlement, the law of England must be respected even to the extent of inducing the settlers to abstain from adopting any means of enforcing the law of England. If they should punish breaches of the law, they would themselves break the law. In order to avoid one breach of the law, hundreds, perhaps, must be permitted. Such is the dilemma in which a strict interpretation of the law, together with Lord John Russell's threat, places the colonists. Since, however, the law of England contemplates this dilemma, by leaving no excuse whatever for the exercise by British subjects in any part of the world of a jurisdiction not sanctioned either by the Parliament or by the Crown, the Directors have instructed me to explain the case thus fully to you, for the information of the settlers, in order that the latter may be exactly aware of their own position.

No. 30.

John Ward, Esq. to  
Lord John Russell.

23rd November 1839.

Enclosure 2 in No. 30.



No. 30.

John Ward, Esq., to  
Lord John Russell.  
23rd November 1839.

Enclosure 2 in No. 30.

The difficulties of that position are not a little enhanced in the view of the Directors, by intelligence which has been recently received from France. I allude to foreign pretensions, if not to the sovereignty of New Zealand, at least in opposition to the British sovereignty of those islands.

You will obtain all the information that the Directors possess on this subject, from the copy, which I enclose, of a letter from the Deputy Governor to Lord Palmerston. The Directors are of opinion that it would be unjustifiable in them to withhold such important information from the settlers. You are therefore directed to publish the letter. And as it is possible that the information which the letter contains may prove of service to Captain Hobson, I am further instructed to desire that you will take the earliest opportunity of conveying a copy of it to that gentleman.

The Directors imagine that foreign attempts, either to colonize New Zealand, or to maintain the mockery of a native sovereignty there, in pursuance of the declaration of native independence which was sanctioned by our Colonial Department, and of the instructions recently given to Captain Hobson (of which an extract is enclosed), may have the effect of impeding Captain Hobson in the execution of that part of his instructions, by which he is directed to establish a British authority; and they fear that the period of anarchy in the settlement may then be very mischievously prolonged. Precluded from all communication with the Colonial Office, they are unable to inform you whether Her Majesty's Government have taken or contemplate taking any steps to counteract the hurtful influence of foreign interference, nor is it probable that they will be able to acquire any information on this subject until the meeting of Parliament.

Under these very adverse circumstances, the Directors have most anxiously sought to devise means by which they should afford assistance to the Settlement during the arduous period of its remaining without law; and I have now to communicate to you the result of their deliberations on the subject.

They depend not a little on the possession by the settlers of that self-reliance, that patience and moral courage in emergencies, which is the characteristic of our countrymen, and which has over and over again, in various parts of the world, conquered more formidable difficulties than those with which you will have to contend. They trust and believe that the self-command of the settlers will be in proportion to the necessity for patience and forbearance; that the habits of method, discipline, and co-operation, which are engendered by the institutions of our country, will continue in full force during an occasion which especially calls for the exercise of these qualities; and that thus there may be substituted, for that legal order which is at present withheld from the Settlement, a moral influence sufficiently powerful to repress crime, and maintain the usages of civilized society.

With this dependence on the character of the highly respectable body of colonists who have emigrated under the auspices of the Company, the Directors are of opinion that the settlers may readily substitute for the agreement certain prescribed rules for the settlement of disputes, and the repression of offences, by means obviously not illegal; such, for example, as expulsion from an *Association for Order*, of which all the colonists should at first be members, together with what is termed "sending to Coventry," or exclusion from social intercourse with all who remained faithful to the rules of the association, that is, with the whole body of settlers, except the few whose misconduct would thus be punished, by their being marked and shunned, as outcasts, in the midst of an orderly and moral community.

This suggestion is thrown out in the most general terms only, because the Directors feel that it would not become them to prescribe a specific course to a body of men so well capable as the colonists of judging in such a matter for themselves; also because it is certain that this suggestion could not be carried into effect until the subject had been discussed by the whole body of settlers. The Directors will only further remark, therefore, that the very principle of this plan is that all should exercise a perfectly free will and consent in becoming members of the association. It seems needless to dwell on the necessity of taking care that the new association should avoid anything approaching to the assumption of legal powers, but should strictly confine itself to that sort of moral influence which is exercised by temperance societies, clubs, and other voluntary associations in this country. Relying, as I have said before, on the high character of the body of emigrants, and by no means excepting those of the labouring class, whose good character here has entitled them to a free passage, and whose interest in the well doing of the Settlement is as great as that of the wealthiest capitalist. The Directors would have trusted to the moral force of the proposed association for preserving order, if they had not recollected that, in the neighbourhood of the Company's settlement there will be many lawless and dissolute persons, long unaccustomed to the restraints of law or moral sentiment, some of whom may probably visit the Settlement, and even take up their abode there. This danger to any settlement that might be formed in New Zealand has been frequently urged on the attention of Her Majesty's Government during the last two years, but in vain. In order to guard against it, the Directors have availed themselves of an accident which may prove very fortunate for the colony.

Several of the colonists are acquainted with the Rev. Mr. Butler, of Sheffield, who resided for many years in New Zealand, as a servant of the Church Missionary Society. The Directors have induced him to proceed in the "Bolton" to the Company's Settlement, with Mrs. Butler, and their daughter, and have engaged his services as interpreter to the Company, a capacity in which you will find him highly useful. I enclose for your use a copy of his instructions. He is well acquainted with the language and character of the natives, by whom he was greatly respected when residing amongst them. But Mr. Butler, as well as being an ordained minister of the Church Missionary Society, is a lawful British magistrate in New



No. 30.

John Ward, Esq., to  
Lord John Russell.

23rd November 1839.

Enclosure 2 in No. 30.

Zealand, having received a commission of *dedimus potestatem* from the Governor of New South Wales, and its dependencies, in the year 1819, by which he was authorised to act as a justice of the peace throughout the island. He frequently acted under that commission, by apprehending offenders, and sending them to the seat of government. He still holds that commission, and will take it with him. Here, then, the Directors trust, is a sufficient temporary provision for the prevention of such offences as might otherwise have been committed with impunity, by runaway convicts, or other reckless vagabonds. Mr. Butler, the Directors are assured, has full authority to appoint and enrol special constables for the preservation of order, to apprehend offenders against the law of England, and to put them on board the first ship of war that might touch at the Settlement, in order to their being taken to Sydney for trial.

The Directors further desire that you will make known their firm intention to spare no pains in attempting to induce Her Majesty's Government to afford the colony the benefits of a regular authority. They will probably be unable to take any useful step for this purpose before the meeting of Parliament; but they will then, the settlers may rest assured, use all the means in their power to bring the whole subject before the legislature, from whom, they cannot doubt, that the large body of Her Majesty's subjects who have settled in New Zealand, will obtain the protection to which they have entitled themselves by their laudable exertions in extending the commerce and empire of their country.

Finally, with reference to my letter of the 16th September last, I am again desired to impress on you the anxious wish of the Directors, that you and all the servants of the Company should do whatever may be in your power to promote the success of Captain Hobson's mission, and to accelerate, as much as possible, the time when it is to be hoped that he, as Her Majesty's representative, may establish a British authority, and the regular application of English law, not only in the Company's Settlements, but throughout the islands of New Zealand.

I have, &amp;c.

(Signed)

JOHN WARD, *Secretary*.

Colonel Wm. Wakefield,  
*Principal Agent.*

(Copy.)

(Enclosure 3 in No. 30.)

COUNSEL will please to advise—

Enclosure 3 in No. 30.

1st. Whether persons acting under the Articles of Agreement above set forth, will or will not be justified by law?

2nd. And if you should be of opinion that the articles, or any of them, should be in any respect illegal, what would be the penal consequences to the parties who have affixed their signatures thereto, or to the Directors who have signed their qualified approval at the foot of the regulations, or to the persons who may act under the same, and what remedial steps should be taken by the Directors?

## OPINION.

1st. The parties will not be justified by law in acting under the agreement.

2nd. No penal consequences will attach to the persons in consequence of their having been parties to the agreement, and affixed their signatures; but no acts which may be done or committed, can be legally justified under the authority of the agreement; the consequences will be the same that would result from the acts being done, as if no such agreement had been made.

The course for the Directors to take, is to give notice to those who may be likely to act under the supposed authority of the agreement, that they must not do so on account of its illegality, and that the agreement is abandoned by the Directors.

(Signed)

THOMAS WILDE.

Temple, 14th November 1839.

## No. 31.

From VERNON SMITH, Esq., to JOHN WARD, Esq.

SIR,

Downing Street, 29th November 1839.

No. 31.

I AM directed by Lord John Russell to acknowledge your letter of the 23rd instant.

Vernon Smith, Esq.  
to John Ward, Esq.

29th November 1839.

Lord John Russell is glad to find that, acting on the advice of counsel, you have instructed the persons who have gone to New Zealand not to act on the agreement noticed in Mr. Stephen's letter to Mr. Young, of the 19th September last.

It is likewise satisfactory to Lord John Russell to observe that the Company have desired their servants to do whatever may be in their power to promote the success of Captain Hobson's mission.

I have, &amp;c.,

(Signed)

R. VERNON SMITH.

John Ward, Esq.



No. 32.

From J. WOOD BEILBY, Esq., to Lord JOHN RUSSELL.

*Edinburgh, 57, Northumberland Street,  
8th January, 1840.*

No. 32.

J. Wood Beilby, Esq.,  
to Lord John Russell.  
8th January 1840.

MY LORD,

I TAKE the liberty of writing to you on behalf of a small community of intending emigrants, to request information on the following points:—

1. Whether, in the event of the whole or a part of the islands of New Zealand being taken possession of in the name of Her Majesty, land purchased by us from the New Zealand Land Company will be considered in the same light, with regard to right of tenure, as land afterwards purchased from the Crown.

2. Whether the new British Consul has *power to enforce* his authority, and can grant full security of life and property to Colonists residing in *either* island, or not.

3. In the event of the French taking possession of a district in New Zealand, of which a portion or portions may be in the hands or under the cultivation of British Colonists, will the British Consul be able to recompense such individuals for the loss of their property by a grant elsewhere?

4. In the event of Baron Thierry continuing to act as chief or king of New Zealand after the arrival of the new Resident, is it likely that the French fleet (said to be about to sail from Brest, for the protection of the French South Sea whalers) will support his pretensions, and for a time render the stay of British Colonists in certain localities very dangerous?

Your attention to the above queries at your leisure will much oblige us. Before concluding, I have just to ask one other question on my own account, viz., is it true that the distillation of and trade in spirituous liquors has been put a stop to in Van Diemen's Land and New South Wales.

*Lord John Russell,*  
*&c. &c. &c.*

I am, &c.,  
J. WOOD BEILBY.

No. 33.

From R. VERNON SMITH, Esq., to J. WOOD BEILBY, Esq.

*Downing Street, 18th January, 1840.*

No. 33.

R. Vernon Smith, Esq.,  
to J. Wood Beilby,  
Esq.  
18th January 1840.

SIR,

I AM directed by Lord John Russell to acknowledge the receipt of your letter of the 8th instant, and to acquaint you in reply, that Her Majesty's Government have not in any manner recognized the proceedings of the association called the New Zealand Land Company, and can enter into no engagement as to the validity of any titles to land which may be derived from that body. I am further directed to acquaint you that a local enactment has been recently passed by the Governor and Council of New South Wales to regulate the distillation of spirits within the Colony, and that an Act has passed in Van Diemen's Land for prohibiting the distillation of spirits; both of which enactments are at present under the consideration of the Lords Commissioners of the Treasury.

The other questions proposed in your letter relate to subjects on which Lord John Russell must decline to enter into correspondence with you or with any other private person.

*J. Wood Beilby, Esq.*

(Signed)

I am, &c.,  
R. VERNON SMITH.

No. 34.

From JOHN THOMPSON, Esq., to Lord JOHN RUSSELL.

No. 34.

John Thompson, Esq.,  
to Lord John Russell.  
26th February 1840.

MY LORD,

*11, Abchurch Lane, 26th February, 1840.*

SEVERAL merchants and other persons of respectability and influence in the City, in the hope that their intention may be in conformity with the views of Her Majesty's Government, as regards the establishment of a British Colony in the Islands of New Zealand, have determined to form a joint-stock trading Company, and to adventure a large subscribed capital in promoting the incipient colonization of those Islands, and are desirous to obtain an expression of your



Lordship's opinion of the extent to which their objects and intended operations are likely to meet with the sanction and concurrence of the Government.

For this purpose, I am directed to transmit, for your Lordship's perusal and consideration, the accompanying draft prospectus of the proposed Company, with a request that your Lordship will do me the honour of stating, for the guidance of the parties referred to, whether or not the objects of the proposed Company are such as to entitle the parties to hope that the Government will recommend the grant of a Royal Charter for their incorporation; the Government having stated, in reference to the "New Zealand Association" of 1838, that they could not recommend such a grant to the Association, because "they were not a joint-stock trading Company."

I am directed to add, that the instructions of the Government to Captain Hobson, and the equivocal position and uncertain proceedings of the New Zealand Land Company, with whom the parties in question cannot consent to be identified, appear to suggest and to sanction this application to your Lordship; and respectfully awaiting the honour of your Lordship's reply,

Lord John Russell,  
&c. &c. &c.

(Signed)

I have, &c.,  
JOHN THOMPSON.

No. 34.

John Thompson, Esq.,  
to Lord John Russell.  
26th February 1840.

No. 35.

From R. VERNON SMITH, Esq. to JOHN THOMPSON, Esq.

SIR,

Downing Street, 4th March, 1840.

I AM directed by Lord John Russell to acknowledge the receipt of your letter of the 26th ultimo, enclosing for his Lordship's consideration a Prospectus of the proposed New Zealand Agricultural, Commercial, and Banking Company, and inviting his Lordship's opinion of the extent to which the objects and intended operations of the Company are likely to meet with the sanction of Her Majesty's Government.

I have his Lordship's directions to acquaint you, in reply, that as, by a series of Acts of Parliament, as well as by the measures formerly taken by the executive Government in this country, the sovereignty of Great Britain over New Zealand is expressly disavowed, the Queen cannot be advised to grant any such charter of incorporation as that which you propose at present; nor can the expediency of issuing such a charter at all be decided until Her Majesty's Government shall be in possession of a report from Captain Hobson of the result of the endeavours he has been instructed to make to obtain a cession in sovereignty to the Queen, either of the whole of the islands of New Zealand, or of such parts of them as may be found best adapted for the formation of a British colony.

I have, &c.

(Signed)

R. VERNON SMITH.

John Thompson, Esq.  
&c. &c. &c.

No. 35.

R. Vernon Smith,  
Esq., to John Thompson, Esq.  
4th March 1840.

No. 36.

From J. BACKHOUSE, Esq. to JAMES STEPHEN, Esq.

SIR,

Foreign Office, November 15th, 1839.

No. 36.

I AM directed by Viscount Palmerston to transmit to you the Copy of a Letter from Mr. Somes, Deputy Governor of the New Zealand Land Company; and I am to request that you will lay the same before Lord John Russell, and move his Lordship to favour Lord Palmerston with information as to the statements made by Mr. Somes, with regard to the British right of sovereignty over the New Zealand Islands.

I have, &c.

(Signed)

J. BACKHOUSE.

James Stephen, Esq.  
&c. &c. &c.

J. Backhouse, Esq., to  
James Stephen, Esq.  
15th November 1839.  
7th November 1839.



(Enclosure in No. 36.)

No. 36.

J. Backhouse, Esq., to  
James Stephen, Esq.

15th November 1839.

Enclosure in No. 36.

(Copy.) From JOSEPH SOMES, Esq. to Lord Viscount PALMERSTON, G.C.B.

*New Zealand Land Company's Office, Adelphi,  
7th November 1839.*

MY LORD,

IN the absence of the Governor of the New Zealand Land Company, I, as Deputy-Governor, and on behalf of the Board of Directors, have the honour to address your Lordship on a subject of much national importance, which belongs to the Foreign Department of Her Majesty's Government.

If your Lordship is not already aware of the fact, it is proper that I should inform you at the outset, that the Colonial Office refuses to hold any communication with, or in any way to recognize, the existence of the New Zealand Land Company. We are totally at a loss to conjecture for what reason. The Company has been formed in the usual manner, possesses a paid-up capital exceeding four-fifths of the capital subscribed, and has complied with every other condition of a joint-stock copartnership. Its existence as a Company is not less certain and complete in law, as well as in fact, than that of the Bank of England or any private firm; yet the Colonial Department seems to deny our existence, even to the extent of corresponding on subjects relating to the copartnership, by letters addressed to individual partners at their private residences, as if the consent or recognition of that Department were necessary to the existence of a joint-stock partnership in this free and commercial country. We imagine, of course, that the Colonial Department is extremely hostile to the objects for which the Company was formed.

But even on this point we are left in some doubt, inasmuch as Lord Glenelg, when Secretary of State, offered to some of us a Royal Charter of Incorporation as a Company for colonizing New Zealand; and his successor, Lord Normanby, recently expressed to a Deputation from our body, of which I was one, his Lordship's great satisfaction at finding that the colonization of New Zealand had been undertaken by such a body of gentlemen as those who compose the direction of the Company. Indeed, I pretend to explain nothing to your Lordship. My sole purpose in alluding to the subject here is to make sure that you should be acquainted with the footing on which this Company stands with another branch of the Executive Government.

Notwithstanding these facts, I am under the necessity of addressing your Lordship as the organ of a legally constituted and undeniable Company. My object in so doing is respectfully to call your Lordship's attention, as Her Majesty's adviser on foreign affairs, to the question of the sovereignty of the Islands of New Zealand.

We are assured that this question engages the attention of various commercial bodies, and of a large portion of the public press in France; that the sovereignty of England in New Zealand is denied: that the French Government is urged either to join in that denial, by protesting against the colonization of the islands by England, or to claim an equal right with England to plant settlements there. We are not without fear that some such protest or claim should be admitted by your Lordship's Department, as it appears to have been admitted by the Colonial Department. And we are therefore desirous of laying the following statement before your Lordship.

It appears that the agitation of this question in France has been produced by the publication of a Minute of the British Treasury, made at the instance of the Colonial Department, and bearing date the 19th of July last, and also of an extract from certain instructions recently given by that department to Captain Hobson—two documents by which the Crown of England seems to repudiate the sovereignty of New Zealand. The apparent repudiation consists of an acknowledgment of sovereignty in the native chiefs, from whom Captain Hobson is instructed to procure, if possible, a cession thereof to Her Majesty. It is this acknowledgment, according to all our information, which has given occasion to the pretensions now urged in France. That which England, it is contended, instructs her officer, to procure, if possible, she admits that she does not possess, and she thereby admits the right of France either to obtain sovereign jurisdiction in New Zealand by the means which Captain Hobson is directed to employ, or, if France should prefer that course, to sustain the independent sovereignty of the natives. The argument appears conclusive. It becomes very important, therefore, if it is of great importance to England to prevent the establishment of a French power in the midst of the English colonies of Australasia, that your Lordship should be made aware of the acts of the British Crown, which lead to a conclusion directly at variance from that which may be drawn from the said Minute and Instructions.

The sovereignty of England, in New Zealand, has been over and over again asserted and exercised. Whether it could be subsequently abandoned by such documents as the Treasury Minute and Instructions, is a question in constitutional and international law, on which your Lordship is, of course, far more competent to judge than we can pretend to be. But that there recently was a British sovereignty, either to maintain or to abandon, we have no sort of doubt.

In the year 1769, Captain Cook, acting under a Commission from the Crown of England, took possession of the Islands of New Zealand in the name of His Majesty George the Third. This act was performed in the most formal manner, and was published to the world. We are not aware that it was ever questioned by any foreign power. It constituted sovereignty by possession. The law of nations, we believe, recognizes no other mode of assuming dominion in a country, of which the inhabitants are so barbarous as to be ignorant of the meaning of the word sovereignty, and therefore incapable of ceding sovereign rights. This was the case with the New Zealanders, from whom it would have been impossible for Captain



Cook to have obtained, except in mockery of the truth, a British sovereignty by cession. Sovereignty by possession, is that which the British Crown maintains in a large portion of its foreign dependencies.

In the year 1787 a Royal Commission was granted to Captain Philip, appointing him, in pursuance of the British sovereignty in possession, which had previously been established by Captain Cook, "Captain-General and Governor-in-Chief in and over the Territory of New South Wales and its Dependencies." This territory was described in the Commission as "extending from Cape York, latitude  $11^{\circ} 37'$  south, to the South Cape; latitude  $43^{\circ} 30'$  south; and inland to the westward as far as  $135^{\circ}$  east longitude, comprehending all the Islands adjacent in the Pacific Ocean within the latitudes of the above-named Capes." This is the act by which the Crown first assumed the Government of New South Wales and the other barbarous lands of which Captain Cook had taken possession in the name of the King. The Islands of New Zealand are as clearly within the prescribed limits as Norfolk Island, Van Diemen's Land, or even New South Wales itself.

On the 9th of November 1814, the Governor and Captain-General of New South Wales and its dependencies, acting on the representation of the Crown, by public proclamation declared New Zealand to be a Dependency of his Government, and by regular Commission of *dedimus potestatem*, appointed Justices of the Peace to act there. Some of the Magistrates so appointed were aboriginal natives of the country. It is plain that they were treated as British subjects. In 1819, again, Governor Macquarrier appointed an English Magistrate in New Zealand. This Justice of the Peace exercised the authority so bestowed on him, by apprehending offenders and sending them for trial to the seat of Government.

In 1823, a British Act of Parliament (4 Geo. IV. cap. 97) extended the jurisdiction of the Courts of New South Wales to New Zealand by name, and also to other places in the Southern Pacific, not within the latitudes previously mentioned. Under this authority several persons, we understand, have been tried in New South Wales for offences committed in New Zealand. And we have been informed that property in New Zealand, as well real as personal, has been made the subject of the Bankrupt Law of New South Wales.

The authority of the British Crown was frequently enforced by means of ships of war. And although it cannot be asserted that regular Government was ever established in New Zealand, far more than was essential to creating a British Dependency seems to have been performed.

The Islands thus continued in the state of a dependency until the year 1831, when a series of proceedings commenced, by which the Sovereignty of Britain may perhaps have been forfeited. An officer was appointed to reside at the Bay of Islands. He presented to certain native Chiefs, as from the Crown of England, what was termed "a National Flag." This might have been considered a transfer to these Chiefs of the British Sovereignty, if the resident had not been "accredited" to certain officers of the Church Missionary Society, then settled at the Bay of Islands. By the latter act, the Sovereignty of the Islands would almost seem to have been transferred to these missionaries.

But in October 1835, this diplomatic Agent assembled certain Native Chiefs residing in the northern part of the North Island, called them a Confederation, and sanctioned a Declaration of Native Independence, to which their names were appended.

This last act appears, by all accounts, to have been a mere mockery of its ostensible purport. The tribes of New Zealand are so entirely distinct, so utterly destitute of nationality, as to have no name for the whole country which they inhabit. A national name was invented for this occasion—the words "Na terrene," which express the native pronunciation of the English words "New Zealand." The only parties besides to the so called Declaration of Independence were the Chiefs of a few tribes then inhabiting a small part of one of the islands. These even, inasmuch as their language contains no words to express nationality, sovereignty, or independence, must have been unconscious instruments of the Resident, or of the Missionaries, to whom that officer was accredited, as if they had been the sovereigns of New Zealand. If, indeed, the sovereignty was delegated to the Missionaries, they could, being British subjects, have held it but as trustees for the Crown. If the sovereignty of the natives was then acknowledged, it extended only to the small part of one island, inhabited by the parties to the Declaration. And, in either case, this mockery of an independent sovereign nationality has been set at naught by the power in whose name it took place, inasmuch as the jurisdiction of British law, and the armed authority of British ships of war, have been exercised since, in the same way as before, the Bay of Islands Declaration of Independence.

I beg leave to assure your Lordship, in the name of my colleagues, that we intrude on you with the greatest reluctance. But we have felt that it was incumbent on us, especially during the recess of Parliament, to convey to your Lordship the information that we have received as to the state of feeling in France upon this subject: so that if unhappily the British sovereignty of New Zealand were lost, it should be through no fault of ours. We fear that the measures recently adopted by the Colonial Department may, unless promptly remedied, lead to very disastrous results. We are deeply concerned for the fate of a large and most respectable body of our countrymen, who have emigrated under our auspices. Connected, as several of us are, with the commercial and shipping interests of the country, and knowing therefore how much importance they attach to the British possession of New Zealand, as they have frequently stated in memorials to the Treasury and Board of Trade, we have felt that it was a duty to express to your Lordship the apprehensions which we entertain. We have been told that a French frigate recently sailed for the South Seas with sealed orders, and some of the French newspapers report, with expressions of satisfaction, that the Government of the United States of America has appointed a Consul in New Zealand, to be accredited to "the Con-

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No. 36.

J. Backhouse, Esq., to  
James Stephen, Esq.

15th November 1839.

Enclosure in No. 36.



No. 36.

J. Backhouse, Esq., to  
James Stephen, Esq.  
15th November 1839.  
Enclosure in No. 36.

federation of Chiefs;" and has sent him to his destination in a man-of-war, which is to remain under his orders. These statements may be untrue, or only premature, but, in either case, Captain Hobson's instructions, which attach two conditions, either or both of which may be unattainable, to the exercise of any authority by him in New Zealand, namely, possession of the land by British subjects, and cession by the natives of the sovereignty over such land, are calculated to invite foreign pretensions, which otherwise would never have been imagined.

Enclosing a list of my brother Directors, I have the honor to be,

(Signed) JOSEPH SOMES,  
Deputy Governor.

#### DIRECTORS OF THE NEW ZEALAND LAND COMPANY.

The Earl of Durham, *Governor*.  
Joseph Somes, Esq., *Deputy-Governor*.  
Lord Petre.  
Hon. Francis Baring, M.P.  
John Ellerken Boulcott, Esq.  
John William Buckle, Esq.  
Russell Ellice, Esq.  
James Brodie Gordon, Esq.  
Thomas Alers Hankey, Esq.  
William Hutt, Esq., M.P.  
Stewart Marjoribanks, Esq.  
Sir William Molesworth, Bart., M.P.  
Alex. Nairne, Esq.  
John Pirie, Esq., Alderman.  
Sir George Sinclair, Bart., M.P.  
John Abel Smith, Esq., M.P.  
William Thompson, Esq., Alderman, M.P.  
Sir Henry Webb, Bart.  
Arthur Willis, Esq.  
George Frederick Young, Esq.

No. 37.

Extract of a Letter from J. BACKHOUSE, Esq. to JAMES STEPHEN, Esq.

*Foreign Office, March 11th, 1840.*

LORD Palmerston desires me to refer you to my letter of the 15th November last, and to request that you will move Lord John Russell to favour his Lordship with a reply to that letter.

*James Stephen, Esq.*  
*&c. &c. &c.*

No. 38.

Extract of a Letter from J. STEPHEN, Esq. to JOHN BACKHOUSE, Esq.

*Downing Street, 18th March 1840.*

WITH reference to the concluding paragraph of your letter of the 11th instant, I am directed by Lord John Russell to transmit to you, for the information of Viscount Palmerston, the enclosed Memorandum, containing all the information which it appears to Lord John Russell necessary or practicable to afford in answer to the statements contained in the communication from Mr. Somes to Lord Palmerston, a copy of which accompanied your letter of the 15th November last.

(Enclosure in No. 38.)

#### MEMORANDUM.

Enclosure in No. 38.

In the preceding letter (Mr. Somes to Lord Palmerston, 7th Nov. 1839), the right of Great Britain to sovereignty over New Zealand is maintained on various grounds, which it is unnecessary for the purposes of this paper to controvert, or even to notice. The answers which would be made by foreign nations to such a claim are two; first, that the British Statute Book has, in the present century, in three distinct enactments, declared that New



No. 38.

Zealand is not a part of the British dominions ; and, secondly, that King William IV. made the most public, solemn, and authentic declaration, which it was possible to make, that New Zealand was a substantive and independent State.

The recognition by the King, Lords, and Commons of Great Britain of the fact that New Zealand is not part of the British dominions, will be found in the Statutes 57 Geo. III., cap. 53, 4 Geo. IV., cap. 96, sec. 3, and 9 Geo. IV., cap. 83, sec. 4. The following are extracts from each of those Statutes.

The Act 57 Geo. III., cap. 53, is entitled "An Act for the more effectual punishment of murders and manslaughters committed in places not within His Majesty's dominions." It sets forth, "Whereas grievous murders and manslaughters have been committed at the settlement in the Bay of Honduras, in South America, &c.;" "and the like offences have also been committed in the South Pacific Ocean, as well on the high seas as on land, in the islands of New Zealand and Otaheite, and in other islands, countries, and places not within His Majesty's dominions, by the masters and crews of British ships, and other persons, who have for the most part deserted from, or left, their ships, and have continued to live and reside amongst the inhabitants of those islands," &c.; and the Act then provides for the punishment of offences so committed "in the said islands of New Zealand and Otaheite, or within any other islands, countries, or places not within His Majesty's dominions, nor subject to any other European State or Power," &c.

The Statute 4 Geo. IV., cap. 96, sec. 3, enacts that the Supreme Courts in the Colonies of New South Wales and Van Diemen's Land may try offences "committed in the islands of New Zealand, Otaheite, or any other island, country, or place, situate in the Indian or Pacific Oceans, and not subject to His Majesty or to any European State," if such offences were committed by British subjects.

The Statute 9 Geo. IV., cap. 83, sec. 4, repeats that enactment in the same words, adding, only, that the punishment of the offence shall be the same as if the crime had been committed in England.

The recognition by King William IV. of New Zealand as a substantive and independent state is shown by the following narrative.

On the 16th of November, 1831, a letter to King William IV. from thirteen of the Chiefs of New Zealand was transmitted to Lord Goderich, praying the protection of the British Crown against the neighbouring tribes, and against British subjects residing in the Islands.

On the 14th of June, 1832, Lord Ripon despatched Mr. Busby as British Resident, partly to protect British commerce, and partly to repress the outrages of British subjects on the natives. His Lordship sent with Mr. Busby a letter to the Chiefs, in which the King was made to address them as an independent people. Their support was requested for Mr. Busby, and they were reminded of the benefits which they would derive from "the friendship and alliance of Great Britain."

In the month of June, 1832, a Bill was brought into the House of Commons for the prevention of crimes committed by His Majesty's subjects, "in New Zealand and in other islands in the Pacific, not being within His Majesty's Dominions." The Bill was rejected, because Parliament could not lawfully legislate for a foreign country.

On the 13th of April, 1833, the Governor of New South Wales, in obedience to Lord Ripon's orders, addressed instructions to Mr. Busby, in which New Zealand was expressly mentioned as a foreign country, and Mr. Busby himself, as being accredited to the Chiefs. That document throughout assumes the independence of New Zealand.

On the 29th of April, 1834, General Bourke transmitted to Lord Stanley a proposal from Mr. Busby, for establishing a national flag for tribes of New Zealand, "in their collective capacity," and advised that ships built in the Island, and registered by the Chiefs, should have their registers respected in their intercourse with the British possessions. Sir R. Bourke reported that he had sent three patterns of flags, one of which had been selected by the Chiefs, that the Chiefs had accordingly assembled, with the commanders of the British and three American ships, to witness the inauguration of the flag at which the officers of H.M.S. "Alligator" were also present. The flag had been declared to be "the National Flag" of New Zealand, and being hoisted, was saluted with twenty-one guns by the "Alligator," a British ship of war.

On the 21st of December, 1834, a despatch was addressed to Sir R. Bourke by Lord Aberdeen, approving all those proceedings in the name of the King, and sending a copy of a letter from the Admiralty, stating that they had instructed their officers to give effect to the New Zealand Registers, and to acknowledge and respect the national Flag of New Zealand.

If these solemn Acts of the Parliament, and of the King of Great Britain, are not enough to show that the pretension made by this Company on behalf of Her Majesty is unfounded, it might still further be repelled by a minute narrative of all the relations between New Zealand and the adjacent British Colonies, and especially by the judicial decisions of the superior Courts of those Colonies. It is presumed, however, that, after the preceding statement, it would be superfluous to accumulate arguments of that nature, and the rather because they could not be intelligibly stated without entering into long and tedious details.

J Stephen, Esq., to  
John Backhouse, Esq.

18th March 1840.

Enclosure in No. 38.







Correspondence with the secretary of state relative to New Zealand

London 1840

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